



TOWN OF KITTERY, MAINE

200 Rogers Road, Kittery, ME 03904
Telephone: (207) 475-1329 Fax: (207) 439-6806

January 25, 2016

Kittery Town Council
Requested by Chairperson Gary Beers
Special Meeting Agenda
6:30 p.m.

Council Chambers

1. Call to Order
2. Introductory
3. Pledge of Allegiance
4. Roll Call
5. EXECUTIVE SESSION

(010216-1) The Kittery Town Council moves to go into executive session with the Town Manager in accordance with 1 MRS §405 (6) (D) to discuss labor negotiations.

6. ADJOURNMENT

Posted: January 21, 2016



TOWN OF KITTERY

200 Rogers Road, Kittery, ME 03904
Telephone: (207) 475-1329 Fax: (207) 439-6806

January 25, 2016

Council Chambers

Kittery Town Council
Regular Meeting
7:00 p.m.

1. Call to Order
2. Introductory
3. Pledge of Allegiance
4. Roll Call
5. Agenda Amendment and Adoption
6. Town Manager's Report
7. Acceptance of Previous Minutes
8. Interviews for the Board of Appeals and Planning

Board of Appeals: one appointment effective 1/25/16 until 3/1/17

- Barry Fitzpatrick
- Nanci Lovett

Planning Board: one appointment effective 1/25/16 until 11/30/18

- Brett Costa
- Leroy Dunkelberger

9. All items involving the town attorney, town engineers, town employees or other town consultants or requested officials

a. (010216-1) The Kittery Town Council moves to hear a presentation from the Police Chief on a program called Operation Hope.

b. (010216-2) The Kittery Town Council moves to approve the Wood Island Life Saving Station Repair, Maintenance and Use Agreement called "Agreement Two".

c. (010216-3) The Kittery Town Council moves to approve the Concession Agreement between the Town of Kittery and Wood Island Life Saving Station Association.

10. PUBLIC HEARINGS

11. DISCUSSION

- a. Discussion by members of the public (three minutes per person)
- b. Response to public comment directed to a particular Councilor
- c. Chairperson's response to public comments

12. UNFINISHED BUSINESS

13. NEW BUSINESS

a. (010216-3) Donations/gifts received for Council disposition

The Kittery Town Council moves to accept donations from St. Mary's Submarine Museum, Inc. in the amount of \$350 and Kenneth Myron Bonnell in the amount of \$20, to be deposited in account # 5007-43600 Thresher Memorial.

b. (010216-4) The Kittery Town Council moves to approve the five town-wide Sidewalk Sales Events for 2016, as requested by the Kittery Outlet Association.

c. (010216-5) The Kittery Town Council moves to approve the disbursement warrants.

d. (010216-6) The Kittery Town Council moves to re-appoint the following members to boards, committees and commissions effective 1/25/16:

Board of Assessment Review

- Joseph Afienko until 12/31/18
- Dudley Bierau until 12/31/17

Conservation Commission

- Karen Saltus until 12/31/18
- Earldean Wells until 12/31/18

Mary Safford Wildes Trust

- Jeffrey D. Thomson until 12/31/18

Shellfish Conservation Committee

- Daniel Clapp until 12/31/18
- Jean Treacy until 12/31/18

e. (010216-7) The Kittery Town Council moves to appoint Eric Lemont to the KCC Board of Directors effective 1/25/16 until 12/31/18.

f. (010216-8) The Kittery Town Council moves to ratify and sign a three year labor contract from July 1, 2014 thru June 30, 2017, for the Police Officers unit.

g. (010216-9) The Kittery Town Council moves to adopt its goals for 2016.

14. COUNCILOR ISSUES OR COMMENTS

15. COMMITTEE AND OTHER REPORTS

- a. Communications from the Chairperson
- b. Committee Reports

16. EXECUTIVE SESSION

17. ADJOURNMENT



TOWN OF KITTERY

Office of the Town Manager

200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1329 Fax: 207-439-6806

ncolbertpuff@kitteryme.org

Nancy Colbert Puff
Town Manager

Town Manager's Report to the Town Council January 25, 2016

1. **Police Chief & Lieutenant Search** – In light of Eliot's decision to forego a continued sharing arrangement, I will be advertising for both of these positions immediately.
2. **Title 13 Code Change** – Thanks to Councilor Dennett's diligence, he has identified a code change that needs to take place in the near future pursuant to the appeals process for sewer abatements. The change is required in order to bring our code into compliance with State Statute, and I will draft this for Council's consideration.
3. **Wood Island Hazardous Material Remediation** – Ransom Environmental has prepared a bid package for cleanup of Wood Island, using the Brownfields Program grant. In conjunction with WILLISA issuing its RFP for exterior restoration work, we hope to advertise this project in the near future.
4. **Library Committee** – On 1/19/15, the Board of Directors of Rice Public Library (RPL) and the Kittery Community Center (KCC) met to discuss a request from the RPL to build a new library on Town-property located at the KCC site. The Town Manager's Library Committee also attended. Another meeting between these two Boards has been scheduled for February.

In my last Manager's report, I suggested Council may ultimately consider appointing a new committee to pursue the issue of Library construction. Before then, I suggest the existing Library Committee complete its work, present its report to Council, and at that time, make a recommendation for moving the process forward.

5. **Efficient Delivery of Local and Regional Government Services Grant Application:** At Council's last meeting I reported my intention, working together with our Police and Fire Chiefs and in conjunction with other area Chiefs and Town Managers, to submit a grant application to the aforementioned program. We submitted a request for capital equipment in the amount of roughly \$200,000. I've provided you with a full copy of the application in your packets.

As always, if you have any questions or concerns prior to the meeting, please do not hesitate to contact me. Thank you.

Respectfully Submitted

Nancy Colbert Puff

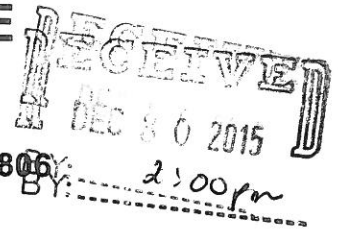


TOWN OF KITTERY, MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806



APPLICATION FOR APPOINTMENT TO TOWN BOARDS

NAME: Barry Fitzpatrick
RESIDENCE: 118 Rogers Road Kittery
MAILING (if different): PO Box 443 Kittery
E-MAIL ADDRESS: bafnaf2@yahoo.com PHONE #: (Home) 207 703-5352 (Work)

Please check your choice:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Board of Appeals | <input type="checkbox"/> Board of Assessment Review |
| <input type="checkbox"/> Conservation Commission | <input type="checkbox"/> Mary Safford Wildes Trust |
| <input type="checkbox"/> Comprehensive Plan Update Committee | <input type="checkbox"/> Shellfish Conservation Committee |
| <input type="checkbox"/> Education Scholarship Committee | <input type="checkbox"/> Economic Development Committee |
| <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee |
| <input type="checkbox"/> Port Authority | <input type="checkbox"/> Planning Board |
| <input type="checkbox"/> Personnel Board | <input type="checkbox"/> Other _____ |

EDUCATION/TRAINING: BS/MEd Springfield College

RELATED EXPERIENCE (Including other Boards and Commissions)

Board of Urban Education Emerson College

PRESENT EMPLOYMENT: retired educator substitute teacher private tutor Educational Consultant

ARE YOU A REGISTERED VOTER OF THE TOWN OF KITTERY ☒ Yes ☐ No

ANY KNOWN CONFLICT OF INTEREST (please read back of application): No

REASON FOR APPLICATION TO THIS BOARD: Interest in the future of my hometown

I HAVE ☒ HAVE NOT ☐ ATTENDED AT LEAST TWO MEETINGS OF THE BOARD FOR WHICH APPLICATION IS BEING MADE. I AGREE TO ATTEND ALL MEETINGS, EXCEPT FOR SICKNESS OR EMERGENCY, AND WILL ADVISE THE CHAIRPERSON WHEN I AM UNABLE TO ATTEND, IF APPOINTED.

Please read the back of this application before signing.

Barry Fitzpatrick
SIGNATURE OF APPLICANT

12/29/15
DATE

Barry A. Fitzpatrick, B.S., M. Ed.

PO Box 443, Kittery, Maine 03904

bafnaf2@yahoo.com

Career educator with domestic and international experience on the elementary, secondary, and collegiate levels within the public and private sectors seeks an instructional, administrative, and/or coaching position.

Springfield College - B.S., M. Ed., Education Major
Harvard University – Shakespeare coursework

Teaching Certifications: History and Theatre – K- 12

ACCOMPLISHMENTS SNAPSHOT:

- Created and implemented a comprehensive course of study in the Humanities with concentration in the Classical Studies domain following district and state standards.
- Created and implemented a World History course that fully integrated great works of art, music, and literature into the regular curriculum all within district and state standards.
- Oversaw Senior Independent Study coursework, i.e., Art History, Islamic Studies, Theatrical Production.
- Created and implemented a comprehensive and inclusive Theatre Arts program. Produced and directed six (6) annual, student centered theatrical productions.
- Establish an ongoing relationship with Emerson College resulting in student admissions, offers of student teacher placement and faculty led professional development workshops.
- Completed a 5-year data driven research study: Reading and Writing in History.
- Completed a professional development presentation: Fine Art Across the Curriculum.
- Conceptualized and directed five (5) annual "Debate in the Oxford Style".
- Conceptualized, co-produced and directed the "Annual Spring Song and Dance Festivals" whose resulting proceeds enabled students to attend live theatrical productions at Boston's Huntington Theatre.
- Delivered lectures, workshops, demonstrations, clinics and seminars for students aged 5-16, adult education and professional development.
- Conducted a departmental team to identify, define and organize school district's curriculum for State and National Accreditation.
- Fashioned and implemented "Managed Budgets" for athletic teams, educational programs, special events and small businesses.
- Supervised budgets, personnel, transportation, lodging, concessions, Media, site selection, safety and fundraising activities.
- Directly recruited students for attendance at international schools.
- Effectively coached Men's/Women's Basketball teams achieving 87% success rate

PROFESSIONAL EXPERIENCE:

English High School, Boston, MA

Teacher of 20th Century American History

Teacher of A.P. U.S. History

Teacher of World History

Teacher of Theatre

Teacher of Humanities

Teacher of Senior level Independent Studies

Umana Barnes Middle School, East Boston, MA

Teacher of Theatre Arts

Teacher of American History

Plymouth State College, Plymouth, NH

Associate Professor, Department of Health, Physical Education and Recreation

Bridgewater State College, Bridgewater, MA

Visiting Lecturer, Movement Arts, Health Promotion and Leisure Studies Department

American Community Schools of Athens, Greece

Academy Instructor

Men's Varsity Basketball Coach (1st place ISST & EMAC)

Athens, Greece – Co-Director/Event Coordinator - The First Professional Basketball All-Star Game

Oyster River High School, Durham, NH

Teacher, Regular and SPED, High School

Women's Varsity Basketball Coach (1st Place, NH Division M)

American Schools of Paris, France

Teacher, Middle and Elementary School

Coach, Men's Varsity Basketball, 3rd Place International Scholastic Schools Tournament (ISST)

Coordinator, ISST European Men's and Women's Basketball Tournament

Asst. Coach, Women's Professional Basketball, Stade Francais

Rustam Abadian and Iranzamin International Schools, Tehran, Iran - Athletic Director, Classroom Teacher

Tehran, Iran - Instructor and Coach, National Swim and Diving Teams

COACHING AWARDS:

Men's Basketball

1st Place European Championships

International Scholastic Schools Tournament, Brussels, Belgium

1st Place Eastern Mediterranean Championships

Eastern Mediterranean Athletic Conference (EMAC), Athens, Greece

3rd Place European Championships (ISST), Paris, France

Men's Baseball/Softball

1st Place Southern York County, Maine, Slow-Pitch League

1st Place Little League, High School, American Legion

Women's Basketball

1st Place New Hampshire Class M

1st Place Augusta, Maine Area Middle School League

1st Place International Schools Tournament, Tehran, Iran.



TOWN OF KITTERY, MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

RECEIVED
DEC 09 2015

BY: 1230 pm

APPLICATION FOR APPOINTMENT TO TOWN BOARDS

NAME: Nanci Loretta

RESIDENCE: 11 PEPPERELL TERRACE KITTERY POINT ME 03905

MAILING (if different) PO BOX 377 KITTERY ME 03904

E-MAIL ADDRESS: _____ PHONE #: (Home) 207-439-1161 (Work) 781-353-1578

Please check your choices:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Board of Appeals | <input type="checkbox"/> Board of Assessment Review |
| <input type="checkbox"/> Conservation Commission | <input type="checkbox"/> Mary Safford Wildes Trust |
| <input type="checkbox"/> Comprehensive Plan Update Committee | <input type="checkbox"/> Shellfish Conservation Committee |
| <input type="checkbox"/> Recycling Scholarship Selection Committee | <input type="checkbox"/> Economic Development Committee |
| <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee |
| <input type="checkbox"/> Port Authority | <input type="checkbox"/> Planning Board |
| <input type="checkbox"/> Personnel Board | <input type="checkbox"/> Other <u>ANY - THAT YOU MAY HAVE</u> |

OPEN

EDUCATION/TRAINING: UNH - LIBERAL ARTS

RELATED EXPERIENCE (Including other Boards and Commissions) PROBLEM SOLVING, RESEARCH, SALES & MARKETING

MY WORK EXPERIENCE HAS ALLOWED ME TO DEVELOP AND ORGANIZE PROCESSES & SYSTEMS;

SET UP LOGISTIC FACILITIES ALL OVER THE WORLD FOR FORTUNE 500 COMPANIES AS WELL AS START UPS.

PRESENT EMPLOYMENT: JSL LOGISTICS

ARE YOU A REGISTERED VOTER OF THE TOWN OF KITTERY ☒ Yes ☐ No

ANY KNOWN CONFLICT OF INTEREST: N/A

REASON FOR APPLICATION TO THIS BOARD: WANT TO GET INVOLVED IN MY COMMUNITY

I HAVE ☒ / HAVE NOT ☐ ATTENDED AT LEAST TWO MEETINGS OF THE BOARD FOR WHICH APPLICATION IS BEING MADE. I AGREE TO ATTEND ALL MEETINGS, EXCEPT FOR SICKNESS OR EMERGENCY, AND WILL ADVISE THE CHAIRPERSON WHEN I AM UNABLE TO ATTEND, IF APPOINTED.

Please read the back of this application before signing.

[Signature]
SIGNATURE OF APPLICANT

12-5-15
DATE



TOWN OF KITTERY, MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

RECEIVED
NOV 24 2015

BY: 10:15 Am

Re applied

mf

APPLICATION FOR APPOINTMENT TO TOWN BOARDS

NAME: Brett Costa

RESIDENCE: 19 Lynch Lane

MAILING (if different) _____

E-MAIL ADDRESS: Drummi1 PHONE #: (Home) 207 451-0442 (Work) _____

Please check your choice: @Comcast.net

- | | |
|--|---|
| <input type="checkbox"/> Board of Appeals | <input type="checkbox"/> Board of Assessment Review |
| <input type="checkbox"/> Conservation Commission | <input type="checkbox"/> Mary Safford Wildes Trust |
| <input type="checkbox"/> Comprehensive Plan Update Committee | <input type="checkbox"/> Shellfish Conservation Committee |
| <input type="checkbox"/> Education Scholarship Committee | <input type="checkbox"/> Economic Development Committee |
| <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee |
| <input type="checkbox"/> Port Authority | <input checked="" type="checkbox"/> Planning Board |
| <input type="checkbox"/> Personnel Board | <input type="checkbox"/> Other _____ |

EDUCATION/TRAINING: CEO owner Costa Enterprises, Pl. to Tilo, Stuyker Post.

RELATED EXPERIENCE (Including other Boards and Commissions) _____
Board of Appeals 13⁺ years

PRESENT EMPLOYMENT: Self

ARE YOU A REGISTERED VOTER OF THE TOWN OF KITTERY ☒ Yes ☐ No

ANY KNOWN CONFLICT OF INTEREST (please read back of application): _____

REASON FOR APPLICATION TO THIS BOARD: Termed out on BOA want to cont service to town

I HAVE ☒ HAVE NOT ☐ ATTENDED AT LEAST TWO MEETINGS OF THE BOARD FOR WHICH APPLICATION IS BEING MADE. I AGREE TO ATTEND ALL MEETINGS, EXCEPT FOR SICKNESS OR EMERGENCY, AND WILL ADVISE THE CHAIRPERSON WHEN I AM UNABLE TO ATTEND, IF APPOINTED.

Please read the back of this application before signing.

Brett Costa
SIGNATURE OF APPLICANT

11/24/15
DATE



TOWN OF KITTERY, MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

RECEIVED
JAN 14 2016

BY: 11:35 Am

APPLICATION FOR APPOINTMENT TO TOWN BOARDS

NAME: LeRoy ("Dutch") Dunkelberger

RESIDENCE: 100 Sandpiper Ln Unit C1

MAILING (if different) PO Box 315, Kittery, ME 03904

E-MAIL ADDRESS: dutchdunkelberger@gmail.com PHONE #: (Home) ⁽²⁰⁷⁾ 439-7653 (Work) ⁽⁶⁰³⁾ 205-4683

Please check your choice:

- | | |
|--|---|
| <input type="checkbox"/> Board of Appeals | <input type="checkbox"/> Board of Assessment Review |
| <input type="checkbox"/> Conservation Commission | <input type="checkbox"/> Mary Safford Wildes Trust |
| <input type="checkbox"/> Comprehensive Plan Update Committee | <input type="checkbox"/> Shellfish Conservation Committee |
| <input type="checkbox"/> Education Scholarship Committee | <input type="checkbox"/> Economic Development Committee |
| <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee |
| <input type="checkbox"/> Port Authority | <input checked="" type="checkbox"/> Planning Board |
| <input type="checkbox"/> Personnel Board | <input type="checkbox"/> Other _____ |

EDUCATION/TRAINING: Retired AF Officer
8 yrs as "Base Mayor" at Pease ANGB.

RELATED EXPERIENCE (Including other Boards and Commissions) Former Eliot Select-
man (2011-2014), Eliot Planning Board (2004-2009) (2014-2015),
Key partner in Eliot/Kittery Ambulance Contract and developing

PRESENT EMPLOYMENT: Eliot Growth Permit Ordinance
Part-time at Home Depot

ARE YOU A REGISTERED VOTER OF THE TOWN OF KITTERY ☒ Yes ☐ No

ANY KNOWN CONFLICT OF INTEREST (please read back of application): None.

REASON FOR APPLICATION TO THIS BOARD: I can help my new home town;
skills & desire

I HAVE ☐ / HAVE NOT ☒ ATTENDED AT LEAST TWO MEETINGS OF THE BOARD FOR WHICH APPLICATION IS BEING MADE. I AGREE TO ATTEND ALL MEETINGS, EXCEPT FOR SICKNESS OR EMERGENCY, AND WILL ADVISE THE CHAIRPERSON WHEN I AM UNABLE TO ATTEND, IF APPOINTED.

Please read the back of this application before signing.

[Signature]
SIGNATURE OF APPLICANT

14 Jan 16
DATE

~~December 26, 2015~~ January 16, 2016

**WOOD ISLAND LIFE SAVING STATION REPAIR, MAINTENANCE, AND USE
AGREEMENT**

This REPAIR, MAINTENANCE and USE AGREEMENT, hereinafter referred to as "AGREEMENT TWO" is made and entered into this __ day of ____, 2016 by and between the Town of Kittery, hereinafter referred to as the "TOWN", and the Wood Island Life Saving Station Association, a Maine non-profit corporation based in Kittery Point, Maine, with a mailing address of P.O. Box 11, Kittery Point, ME 03905, hereinafter called the "WILSSA", collectively called "PARTIES."

WITNESSETH:

Whereas, the TOWN owns certain land, a historic life saving STATION and appurtenances totaling 1.25 acres, obtained by the TOWN from the United States of America, known as Wood Island Life Saving Station, and deeded to the TOWN February 27, 1973, found in Book 1985 Page 201, hereinafter referred to as the "PREMISES". A copy of the Said quitclaim deed is attached and hereinafter referred to as Exhibit A; and

Whereas, the TOWN and WILSSA use the term STRUCTURES to mean hereinafter the STATION (main building), shed, marine railway, pier, floats, moorings, seawalls, and wreck pole; and WILSSA expects to seek approval to construct and maintain a pier, and float extending from the premises and to apply for mooring rights.

Whereas, Condition No. 1 of said Deed states:

"The property shall be used and maintained for the public purposes for which it was conveyed in perpetuity as set forth in the program of utilization and plan contained in the application submitted by the Grantee on the 25th day of October, 1972, as amended the 27th day of November, 1972, which program and plan may be further amended from time to time at the request of either the Grantor or Grantee, with the written recommendation and advice of the other party, and such amendments shall be added to and become a part of the original application;" and

Whereas, such program of utilization referenced above includes a statement that

"the island would be used by boaters in the Piscataqua River as a place to stop for cookouts, picnics, etc. In addition, depending on condition of present buildings it would also be maintained as a point of interest or historic site;" and

Whereas, Condition No. 3 of said Deed provides that the TOWN "will not sell, lease, assign or otherwise dispose of the premises, except to another local Government agency..."; and

40 **Whereas, Condition No. 3 of said dDeed further provides that “nothing ... shall**
41 **preclude ... concession agreements entered into with third parties” and the US**
42 **National Park Service has informed TOWN it has no objection to the TOWN entering**
43 **into a concession agreement with a viable organization to repair and maintain the**
44 **structures for public use; and states:**

45 “The property shall not be sold, leased, assigned, or otherwise disposed of
46 except to another eligible governmental agency that the Secretary of the
47 Interior agrees in writing can assure the continued use and maintenance of
48 the property for a public park or public recreational purposes subect to the
49 same terms and conditions in the original instrument of conveyance.
50 However, nothing in this provisions shall preclude the Grantee from
51 providing recreational facilities and services compatible with the approved
52 application, through concession agreements entered into with third parties,
53 provided prior concurrence to such agreements is obtained in writing from
54 the Secretary of the Interior”; and

55 Whereas, it is the intent of both of the PARTIES hereto that the AGREEMENT
56 provided herein does not apply to or extend to any Town property beyond Wood
57 Island; and

58 **Whereas, WILSSA desires to repair or construct the structures, maintain them and**
59 **use them as a public maritime museum for the use and enjoyment of the general**
60 **public; and**

61 **Whereas, the TOWN proposes to allow the WILSSA to maintain, repair or construct**
62 **the STRUCTURES, maintain them and use them as a public maritime museum for the**
63 **use and enjoyment of the general public; and**

64 **Whereas, the TOWN PARTIES acknowledges that the property contains hazardous**
65 **materials and only the TOWN can fund a hazardous materials abatement of the**
66 **structures and premises; the TOWN has secured \$200,000 in federal Brownfields**
67 **funding; the abatement of all hazardous materials eligible for federal funding will be**
68 **undertaken by TOWN with the concurrence assistance of WILSSA in terms of**
69 **planning, timing, budgeting, phasing, approach and vendor selection; and, every**
70 **effort will be made by the PARTIES to create and publically advertise a scope of**
71 **work as soon as practical and begin work in the spring of 2016; and**

72 **Whereas, the TOWN and WILSSA have expect to finalized a Cconcession**
73 **Aagreement, as agreed by the National Park Service, that specifies the conditions**
74 **under which the restored STRUCTURES will be operated for the use and enjoyment**
75 **of the public by WILSSA; and**

76 **Whereas, TOWN and the Maine State Historic Preservation Office have finalized**
77 **executed a 20 year Preservation Covenant Agreement as required by the \$200,000**
78 **National Maritime Heritage grant which has been approved by National Park Service**

that specifies the conditions under which the restored exterior of the STATION will be maintained; and

Whereas, the legislature of the State of Maine has passed into law an appropriation for \$200,000 in funding to match the National Maritime Heritage grant and to be used for the exterior repairs of the building as soon as the hazardous materials abatement has been completed; and

Whereas, WILSSA desires to seek additional private, foundation, corporate, state and federal funding or assistance to satisfy the financing of the repairs, maintenance and operation of the STRUCTURES and the TOWN agrees to promptly review, make comments to, and support applications for funding or assistance by WILSSA, or, where the Town deems appropriate, apply for such funds or assistance itself on behalf of WILSSA (such as an application for an innovative readiness training exercise from the Maine National Guard), with the understanding expressed condition that TOWN will not pay for any funding with the exception of the hazardous materials abatement funding described above; and

Whereas, the TOWN agrees to allow WILSSA to create a protocol procedure for recognizing donors and volunteers to this project, subject to the Town's approval when such procedures involve the use of the Town's name, or property; and

Whereas, WILSSA and the TOWN agree that a nomination for National Register of Historic Places is appropriate and fitting for the historic STATION that is eligible for such listing and the TOWN agrees not to object to such a nomination and to support it; and

Whereas, Nothing in this AGREEMENT may restrict the general public's access to Wood Island itself for public park and recreational purposes year round, with the exception of areas inside designated as temporary construction sites or and to the public maritime museum. Visits by the general public to the public maritime museum during its regular hours of operation shall be regulated by WILSSA, subject to any limitations contained in this AGREEMENT.

NOW, THEREFORE, for the reasons set forth above, and in consideration of the mutual covenants and agreements as hereinafter set forth, WILSSA agrees to undertake the repair and maintain the STRUCTURES and the TOWN agrees to allow WILSSA to maintain, repair or construct the STRUCTURES subject to strict compliance with all the terms and conditions of this AGREEMENT and further provided that WILSSA obtains all permits, licenses, and approvals required by the TOWN's Code Enforcement Officer and other permitting governmental authorities.

1. Exclusive Authority to Maintain, Repair or and Construct Structures

The TOWN does hereby allows the WILSSA to maintain, repair or construct the STRUCTURES. The TOWN agrees in strict compliance with all the terms and conditions of this AGREEMENT. The TOWN agrees not to award contracts or work to

any other individual or entity, including itself, during the term of this AGREEMENT regarding the STRUCTURES, including, but not limited to, their repair, maintenance or use and the design, scheduling and execution of same without the written approval of WILSSA.

2. Improvements to Inure to the TOWN

Improvements to the STRUCTURES as undertaken, worked on, and completed by WILSSA shall become the sole property of the TOWN.

3. Term

This AGREEMENT is effective immediately upon execution. This AGREEMENT will expire, unless extended by the mutual written agreement of the PARTIES, either at the end of the term of the concession agreement or any extension thereof or 20 years after the issuance of the initial completion of the exterior repairs if no certificate of occupancy has been secured by WILSSA for the PREMISES in that time, whichever occurs later building permit issued to WILSSA by the Kittery Code Enforcement Officer for work on any of the STRUCTURES.

4. Payments, Fees and Royalties

There will be no fee or tax paid by WILSSA to the TOWN ~~or any other party~~ for this AGREEMENT or for any matters covered by this AGREEMENT. In addition, the TOWN will impose no other costs of any kind may be levied upon WILSSA or the premises STRUCTURES during the term of this AGREEMENT including, but not limited to, real estate property taxes or special assessments. No funds raised by WILSSA will become the property of the TOWN except in accordance with Article 17 or 18 of this Agreement. WILSSA ~~is authorized~~ may ~~to~~ create and retain any royalties or payments for the use of images and descriptions of the STATION or any its activities related to repairing, maintaining or operating the STATION.

5. WILSSA's and TOWN'S Records and Documents / Annual Report of Activities

With respect to all matters covered by this AGREEMENT, WILSSA'S records and documents are subject at reasonable times to inspection, review or audit by the TOWN. With respect to all matters covered by this AGREEMENT, the TOWN'S records and documents are subject at reasonable times to inspection, review or audit by WILSSA. WILSSA must provide to the TOWN a regular report of activities on an annual basis with the first of such report being due from WILSSA to the TOWN one year from the execution date of this AGREEMENT. This report must include milestones reached, approximate contract and volunteer hours expended, funds raised, funds expended, annual budget, and forward looking estimates of the tasks ahead, and timelines for completing all repairs and maintenance authorized by this AGREEMENT. TOWN may use this report as it wishes, including using it in whole or in part to satisfy any reporting requirements regarding Wood Island with the National Park Service.

158 **6. Licenses and Permits**

159 All necessary licenses and/or permits to undertake repairs to or construction of the
160 STRUCTURES or any other work to the STRUCTURES requiring a license or permit
161 to undertake the operations found in the concession agreement must be obtained by
162 WILSSA from the appropriate TOWN, State, and Federal offices permitting or
163 licensing authorities. All fees for TOWN licenses and/or permits and inspections
164 will be waived for this project work authorized by this AGREEMENT. Consent for
165 The issuance of any TOWN permits or permissions must not be unreasonably
166 withheld provided WILSSA complies with all Town, State, and Federal codes,
167 statutes, and regulations required for such permits or permissions to issue.

168 **7. Financial Security Package**

169 Before undertaking any repairs or other improvements to the STRUCTURES as
170 permitted under the terms of this AGREEMENT and to insure the satisfactory
171 performance and completion of such repairs and improvements, WILSSA must
172 establish an Irrevocable Letter Of Credit (LOC) with a Maine licensed bank or other
173 comparable security ~~or contract such as a federal grant agreement or a state~~
174 ~~appropriation with a relevant oversight agency in an amount of not less than the~~
175 projected total costs of the proposed repairs and improvements as reflected in the
176 building permit(s). The specific amount, financial institution, form and terms of the
177 LOC or other comparable security or contract to fund the portion of the project to be
178 completed must be approved by the Kittery Town Manager for ~~only~~ the purpose of
179 assuring the financial security package meets the intent of this requirement. The
180 Kittery Town Manager ~~will~~ may consider in-kind contributions as a part of the
181 financial security package.

182 **8. Repair**

183 WILSSA ~~shall~~ will select, arrange, design, schedule and supervise any and all aspects
184 of the restoration of the STRUCTURES including all construction and finish work,
185 subject to periodic inspection by the TOWN and any other permitting authority to
186 assure strict compliance with all applicable codes, ordinances, and permits. The
187 TOWN will secure seek WILSSA's concurrence recommendations and advice in terms
188 of planning, timing, phasing, design, budgeting, approach, and vendor selection
189 regarding the hazardous materials abatement.

190 **9. Inspection of Structures**

191 ~~TOWN,~~ The National Park Service, and the State Historic Preservation Officer and
192 their duly authorized representatives have the right to enter into and upon the
193 STATION at a reasonable hour for the purpose of inspection of the STRUCTURES
194 covered by this AGREEMENT upon reasonable advance notice to WILSSA. The
195 TOWN's Code Enforcement Officer and the TOWN'S public safety personnel,
196 including Fire and Police, have the right to enter the structures at any time to

perform inspections or undertake any activities within their respective functions and jurisdictions.

10. Other Terms and Conditions

A. Indemnity and Limitation of Liability

1) WILSSA hereby agrees to indemnify, defend and hold harmless the TOWN and its respective officers, officials, agents, employees, members of boards and committees, with respect to the equipment, work and materials that WILSSA or its subcontractors, employees, agents or representatives have agreed to perform and supply under this AGREEMENT from and against all expenses, losses and claims, demands, payments, suits, actions, liabilities, recoveries, and judgments of any nature and description, other than as a result of the sole negligence of the TOWN, including reasonable attorney's fees, resulting from claims arising out of or related to any act or omission of WILSSA, its agents, employees, contractors, representatives for service or materials provided, in the work and materials that WILSSA has agreed to perform and supply under this AGREEMENT, or by reason of any suit or claim for royalties, license fees, or infringement of copyright or patent rights arising, or alleged to have risen, from WILSSA'S performance under this AGREEMENT. This obligation to indemnify, defend and hold harmless does not waive any defense, immunity or limitation of liability which may be available to the TOWN, its officers, agents, or employees under the Maine Tort Claims Act pursuant to 14 M.R.S. §8101 et. seq.

2) In the event of the commencement of any action against the TOWN, or its respective officers, officials, agents, employees, or members of boards and committees which is within the scope of this indemnification, the TOWN will give notice thereof to WILSSA within fifteen business days after the TOWN is formally noticed in any such action, and, after consultation with the TOWN, WILSSA will have the right to select and furnish counsel for the defense of any such action, at no cost or expense to the TOWN.

3) The TOWN'S failure to give timely notice to WILSSA of the commencement of any such action does not relieve WILSSA of its obligations under this section unless such failure to give timely notice causes actual prejudice to WILSSA'S ability to defend any such claim. Except for settlements involving only the payment of money, no settlement which creates an obligation for the TOWN of any such action, or any claim therein, may be made by WILSSA or by counsel selected by WILSSA without the approval of the TOWN, which approval may not be unreasonably withheld.

4) The extent of WILSSA's indemnification and hold harmless is not limited by the requirements for liability insurance under this AGREEMENT.

5) The provisions of this Article 10 survive the termination of this AGREEMENT.

B. Force Majeure

WILSSA is not liable for any loss or damage due to failure or delay in performance under this Agreement resulting from any unusual or unavoidable cause beyond WILSSA's reasonable control including such as, but not limited to: acts of God; acts or omissions of civil or military authority; fires; floods; epidemics; quarantine restrictions; unusually severe weather; strikes or other labor disputes; embargoes; wars; political strife; riots; sabotage; unusual delay in transportation.

11. Insurance

A. Coverage and Limits

Once construction begins on the structures and thereafter, WILSSA shall at its sole expense maintain insurance per the specifications and minimum limits set forth herein.

1) Commercial General Liability on an occurrence, as opposed to claims made, basis with general aggregate limit applicable per project and per location.

Each occurrence limit:.....\$1,000,000.00

General aggregate limit:.....\$2,000,000.00

Products/Completed operations aggregate limit:.....\$2,000,000.00

An additional insured provision is to apply to the TOWN and its respective officers, officials, agents, and employees on a primary, non-contributory basis.

2) Automobile liability for owned, hired, and non-owned autos with combined single limit each accident of \$1,000,000. An additional insured, or designated insured, provision is to apply to the TOWN and its respective officers, officials, agents, and employees.

3) If there are any employees, workers' compensation insurance to comply with the requirements of Maine statute, plus employers' liability for:

Each Accident:.....\$100,000.00

Each Employee (disease):.....\$100,000.00

Policy Limit (disease):.....\$500,000.00

4) If required by Federal Statute, coverage to comply with the Longshore and Harbor Workers' Compensation Act (33 USC Sections 901-950) and/or Merchant Marine Act, 1920 (46 USC Section 688) commonly referenced as the "Jones Act".

5) All policies required by this AGREEMENT are to be provided by a company, or companies, admitted to conduct business in the State of Maine. All policies shall be so written that the Kittery Town Manager will be notified of cancellation or restrictive amendment at least ten (10) days prior to the effective date of such cancellation or amendment. A certificate of insurance from WILSSA'S insurance carrier showing at least the coverage and limits of liability specified above and the

inception and expiration dates shall be filed with the Town Manager at least seven (7) calendar days before operations are begun.

6) WILSSA ~~agrees to~~must require that any written Agreements between WILSSA and any of its service or material provider(s) ~~will~~ requires the same provisions, coverages, and limits as in this Article 11. WILSSA shall obtain an endorsement to its Commercial General Liability policy to cover WILSSA'S obligations under this Article.

7) The TOWN will use its best effort to include WILSSA as an insured party in any agreement with the Abatement Contractor.

8) The provisions of this Article 11 survive the termination of this AGREEMENT.

12. Amendment to AGREEMENT

This AGREEMENT contains all the terms and conditions between the PARTIES, and no alteration, amendment, or addition to this AGREEMENT including any new ~~TOWN rules or regulations related to Wood Island or its operations~~ is valid unless in writing and signed by the WILSSA and a majority vote of the full TOWN COUNCIL.

13. Governing Law

This AGREEMENT is governed and interpreted by Maine law.

14. Liens

WILSSA shall keep the assigned facilities free from any and all liens arising out of any work performed, materials furnished, or obligations incurred by WILSSA during the term of this AGREEMENT or any extension or renewal thereof.

15. SeverabilityWaiver

No waiver by either party at any time, expressed or implied, of any breach of any provision of this AGREEMENT may be deemed a waiver of breach of any other provision of this AGREEMENT or a consent to any subsequent breach of the same or any other provision.

16. Dispute Resolution

Any dispute between the PARTIES arising out of or relating to this AGREEMENT must be resolved in accordance with this Aarticle. Any party may give written notice of a dispute arising out of or related to this AGREEMENT to the other party in person or by certified mail, return receipt requested. The PARTIES must attempt to resolve the matter through informal communication or negotiation for a period of thirty (30) days from the date of receipt of notice by the last party to receive notice. If the dispute has not been resolved within thirty (30) days, either party may serve written notice on the other party of a request for mediation. If the PARTIES mutually agree to mediation, ~~t~~ The mediation must be conducted in Maine by a mediator mutually agreeable to the PARTIES, must not exceed one full day or two half days in length, and must be completed within ninety ~~(90)~~ (99.45) days from the date of receipt of

notice of a request for mediation by the last party to receive notice. In the event that the PARTIES are unable to agree on a mediator within thirty (30) days, or to resolve the dispute through mediation within 90 45 days, the dispute ~~must~~ may be submitted to arbitration with the written concurrence of both PARTIES in accordance with the procedures of the Maine Uniform Arbitration Act, 14 M.R.S. §5927 et seq. Nothing in this provision precludes either party from seeking ~~any other all~~ available legal or equitable remedies following mediation if it is held and arbitration is not agreed to by both PARTIES ~~following mediation, and~~ arbitration as set forth in this agreement.

17. Termination by TOWN/ WILSSA for Cause

A. TOWN may terminate this AGREEMENT if WILSSA:

- 1) Fails to provide timely reports of activities to the TOWN as required by this AGREEMENT.
- 2) Is in substantial breach of a provision of the AGREEMENT.
- 3) This AGREEMENT may also be terminated by the TOWN in the event that WILSSA ceases to be an active, functioning Maine non-profit corporation registered to do business under the laws of the State of Maine.

When any of the above conditions exist, the TOWN may, without prejudice to any other rights or remedies of the TOWN and after giving WILSSA thirty days written notice to remedy above condition and the condition has not been remedied within 30 days of such notice, terminate this AGREEMENT and may:

- 4) Take possession of all improvements made by WILSSA;
- 5) Maintain the work by whatever reasonable method TOWN may deem expedient using funds available through an Irrevocable Letter Of Credit or other comparable security as referred to in Article 78, or

B. WILSSA may terminate this AGREEMENT if the TOWN:

- 1) Is in substantial breach of a provision of this AGREEMENT document.
- ~~2) If the National Park Service does not approve a concession agreement agreeable to the PARTIES.~~

When any of the above conditions exist, WILSSA may, without prejudice to any other remedies or WILSSA and after giving the TOWN thirty (30) days written notice to remedy the above condition and the condition has not been remedied, terminate the AGREEMENT without penalty and may revoke the Letter of Credit or Other Comparable Security.

18. Voluntary Termination

If there is significant damage to the STRUCTURES caused by weather, fire, or vandalism during the effective period of this Agreement, WILSSA will estimate the cost of to repair the damage. If those costs exceeded 75% of the cost of replacement of the damaged structures or portion thereof of any one of the STRUCTURES so damaged from fire (including arson), flood, lightning, wind, wave or any act of God beyond the WILSSA'S control during the course of this AGREEMENT that WILSSA is unable or unwilling to repair at their own expense, WILSSA reserves the right to terminate this contract without penalty.

If, in the event of damage to the structures as described above, the TOWN will inquire of WILSSA if WILSSA intends to exercise its right of voluntary termination. WILSSA will answer such an inquiry from the TOWN, when notified, within 60 days and if planning to repair the damage at its own expense will provide a plan of work with timetable to complete the repairs. The TOWN will accept the plan of work and timetable under the same terms and conditions as are in this AGREEMENT.

If WILSSA chooses voluntarily to terminate this AGREEMENT for the reasons stated, any funds available in the letter of credit or other comparable security must be released to the TOWN to be used to help remedy the damage and maintain the property. Any funds remaining from the Letter of Credit or other comparable security after a remedy of the damages and maintenance of the property must be returned to WILSSA.

19. Maintenance of Structures:

At the completion of the repairs of the exterior of the STATION and continuing throughout the duration of this AGREEMENT, WILSSA ~~shall~~must, at its own expense and at no cost or expense to the TOWN but subject to approval of the TOWN and all applicable Town ordinances, maintain the STRUCTURES in a safe and attractive orderly manner. A 20-year ~~Agreement~~ describing maintenance and related conditions for the exterior of the STATION (Exhibit B, "Preservation Agreement") has been approved by the designee of the National Park Service and entered into by TOWN as Grantor and the State of Maine as Grantee. ~~That Agreement allows for TOWN to seek other parties to pay for the maintenance costs of the Agreement.~~ WILSSA shall maintain the property in accordance with that Agreement on behalf of TOWN, subject to the TOWN's jurisdiction, supervision, and approval.

20. Acknowledgement: Deed Terms and Conditions

This AGREEMENT and the obligations of the parties hereto are subject to the terms and conditions set forth in the deed from the United States of America to the TOWN, dated February 27, 1973, and recorded in the York County Registry of Deeds at Book 1985 Page # 201, and the current Program of Utilization referenced in this AGREEMENT ~~which governs the use of the property.~~

21. Assignment

WILSSA may not assign sublet or otherwise transfer in any other way to any party or individual its rights, duties or obligations under this AGREEMENT, either in whole or in part without the prior written consent of the majority vote of the full Town Council unless specified in the concession agreement, provided further that such sublet or transfer is not in violation of the TOWN's Deed covenants.

22. Notice

Any notice required or permitted to be given by either party hereto to the other is deemed to have been duly given when delivered personally or otherwise actually received after mailing by certified mail, return receipt requested, or by reputable overnight courier or by facsimile (with confirmation of receipt), addressed as follows:

To TOWN:

TOWN MANAGER

200 ROGERS ROAD

KITTERY, ME 03904

To WILSSA:

WOOD ISLAND LIFE SAVING STATION ASSOC.

P.O. BOX 11

KITTERY POINT, ME 03905

Other addresses may be established as the parties hereto may designate by written notice to the other party and delivered in accordance with the provisions of this Article.

24. Rescission and Supersession

The AGREEMENT between the TOWN and WILSSA, dated October 18th, 2013, and all amendments thereto are superseded and rescinded as from the effective date of this Agreement Two.

25. Severability of Provisions.

If any provision, or any portion thereof, contained in this AGREEMENT is held unconstitutional, invalid or unenforceable, the remainder of this AGREEMENT, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

IN WITNESS WHEREOF, the TOWN has authorized its Town Manager representing the TOWN to sign this AGREEMENT and WILSSA has approved the AGREEMENT and signed as of the date first noted above.

TOWN, by: _____

[Name] [Title] [Address] [TOWN, State, Zip Code]

WITNESS: _____

417 WILSSA, by:_____

418 _____
[Name] [Title] [Address] [TOWN, State, Zip Code]

419 WITNESS:_____

420 EXHIBIT A. Quitclaim Deed

421 EXHIBIT B. Preservation Agreement

December 26, 2015 January 16, 2016

CONCESSION AGREEMENT

Between

TOWN OF KITTERY, MAINE

and

WOOD ISLAND LIFE SAVING STATION ASSOCIATION

This Concession Agreement is made this ____ day of _____, 2016 by and between the TOWN OF KITTERY, a municipal corporation of the State of Maine, with its office at Town Hall, 200 Rogers Road, Kittery ME, 03904, hereinafter referred to as the "TOWN", and the Wood Island Life Saving Station Association, a Maine non-profit corporation based in Kittery Point, Maine with a mailing address at PO Box 11, Kittery Point, ME, 03905 hereinafter referred to as "WILSSA", and collectively as the "PARTIES".

RECITALS

Whereas, the TOWN owns certain land totaling 1.25 acres, historic life saving STATION and appurtenances, obtained by the TOWN from the United States of America (hereinafter referred to as the "USA"), known as Wood Island Life Saving Station, hereinafter referred to as the "PREMISES", which was deeded to the TOWN on February 27, 1973, and found in Book 195 Page 201 of the York County Registry of Deeds. A copy of the quitclaim deed, hereinafter referred to as the "Town's Deed," is attached (Exhibit A, "Quitclaim Deed"); and

Whereas, the TOWN and WILSSA use the term STRUCTURES to mean hereinafter the STATION (main building), shed, marine railway, pier, floats, moorings, seawalls, and wreck pole; WILSSA expects to seek approval to construct and maintain a pier and float extending from the premises and to apply for mooring rights; and

Whereas, Condition No. 1 ~~of said deed~~ in the Town's Deed explicitly states as follows:

"The property shall be used and maintained for the public purposes for which it was conveyed in perpetuity as set forth in the program of utilization and plan contained in the application submitted by the Grantee on the 25th day of October, 1972, as amended the 27th day of November, 1972, which program and plan may be further amended from time to time at the request of either the Grantor or Grantee, with the written recommendation and advice of the other party, and such amendments shall be added to and become a part of the original application" sets forth that the property shall be used and maintained for the public purposes for which it was conveyed in perpetuity as set forth in the program of utilization and plan contained in the application submitted by the Grantee on the 25th day of October, 1972 and amended the 27th day of November 1972, and

Whereas, such program of utilization referenced above includes a statement that

36 "the island "would be used by boaters in the Piscataqua River as a place to stop for cookouts,
37 picnics, etc. In addition, depending on condition of present buildings it would also be
38 maintained as a point of interest or historic site;" and

39 **Whereas**, Condition No. 3 of said in the Town's dDeed expressly stated:

40 -"The property shall not be sold, leased, assigned, or otherwise disposed of except to another
41 eligible governmental agency that the Secretary of the Interior agrees in writing can assure the
42 continued use and maintenance of the property for a public park or public recreational purposes
43 subect to the same terms and conditions in the original instrument of conveyance. However,
44 nothing in this provisions shall preclude the Grantee from provising recreational facilities and
45 services compatible with the approved application, through concession agreements entered into
46 with third parties, provided concurrence to such agreements is obtained in writing from the
47 Secretary of the Interior; provides that the TOWN "will not sell, lease, assign or otherwise
48 dispose of the premises, except to another local Governmental agency..." However, nothing in
49 this provision precludes the TOWN from providing related recreational facilities and services
50 compatible with the approved application, through a concession agreement entered into with
51 third parties, provided prior concurrence to such agreement is provided in writing by the
52 Secretary of the Interior or delegated representative; and

53 **Whereas**, as required by express terms of the Town's Deed, it is anticipated that the Secretary of the
54 Interior or delegated representative will provided written concurrence to this eConcession aAgreement;
55 and

56 **Whereas**, the PARTIES have entered into an separate MAINTENANCE AAGREEMENT (Exhibit B,
57 "Agreement Two") for WILSSA to repair the STRUCTURES, maintain them and use them for the
58 enjoyment of the general public including as a public Maritime Museum; and

59 **Whereas**, the PARTIES desire to specify the conditions under which the STRUCTURES-premises will be
60 used for the for the use and enjoyment of the general public for public park and recreational use and
61 including as a public Maritime Museum, and to allow WILSSA to raise funds for the expenses of the
62 maintenance, construction, operation and other costs for maintaining the STRUCTURES on the premises;
63 and

64 **Whereas**, the primary purposes of that portion of the premises being used as a the public Maritime
65 Museum established to be maintained by WILSSA, pursuant to this Concession Agreement, are the
66 preservation of historical artifacts; the presentation of historical information; and, the offering of
67 demonstrations and interactive exhibits of the maritime heritage of the Wood Island Life Saving Station;
68 and

69 **Whereas**, the maintenance and proposed use of the STRUCTURES by WILSSA must be consistent with
70 the TOWN's best interest. the TOWN is satisfied that provision of additional services and facilities at the
71 Weed Island Life Savings Station by WILSSA is in the TOWN's and the public's best interest.

72 **NOW, THEREFORE**, for the reasons set forth above, and in consideration of the mutual promises, and
73 covenants, and of this Aagreements, as hereinafter set forth, the TOWN agrees to allow WILSSA to

establish, maintain and operate a public Maritime Museum on the Town's property and located at the Wood Island Life Saving Station in Kittery, Maine at Wood Island.

1. LOCATION:

The TOWN ~~does hereby assign~~ allows to WILSSA to use a portion of Wood Island the use consisting of the Wood Island Life Saving Station and STRUCTURES which are part of the property PREMISES described in Exhibit A. The surrounding PREMISES of Wood Island, totally 1.25 acres, may also be used by WILSSA for the purposes stated herein but must remain open for public park and recreational use at all times as described in Section 3. Use of the property is subject to the terms and conditions contained in the TOWN's Deed, attached as Exhibit A.

2. USE OF PREMISES:

Under the TOWN's Deed the PREMISES must be used for public park and public recreational use, but WILSSA may use the STRUCTURES for a public Maritime Museum with access to the general public.

~~The PARTIES agree that the premises must be used as a Maritime Museum and for public recreational purposes. All uses undertaken by WILSSA pursuant to this Agreement must strictly comply with local land use ordinances, as well all local, state, and federal permits and regulations. TOWN acknowledges that this Concession Agreement is exclusive to WILSSA for the purpose of operating a public maritime museum and may not contract with any other individual or entity, including the Town, during the term of this AGREEMENT. This provision does not preclude WILSSA from contracting with professional service providers, or other vendors, to assist in operating the station such as charter boat operators to transport visitors to and from Wood Island, subject to compliance with all provisions of this AGREEMENT.~~

The premises may be used only for the following purposes, programs and activities, subject to all applicable Town, State, and Federal permits and approvals:

- a. A public museum will occupy the first floor, the observation tower and portions of the property, depicting the history of Wood Island, specifically the roles of the US Life Saving Service from 1908 to 1915; the US Coast Guard from 1916 to 1941 and 1945 to 1948; and, the US Navy from 1941 to 1945.
- b. Demonstrations of life saving operations, displays of life saving equipment and implements and demonstrations of their use, methods and types of life saving and lifesaving architecture nationwide and interior furnishings that replicate what life was like in the STATION for the men that served there.
- c. Fund raising and income creating activities and programs for the benefit of the Museum. Fees charged for admission to the public Museum will be reasonably nondiscriminatory and comparable to fees charged at similar facilities in the area. The public Museum may must be open seasonally to the general public for such periods (months, days and hours) as determined in by the agreement of WILSSA and subject to the prior approval of Town Council sole discretion of WILSSA, but is intended to be open from June 1st through August 31th of any year covered by this agreement.

- d. Office and lodging space to support the public Museum may be provided on the second floor with limited public access, provided that such use complies with Town ordinances. The tower is intended to be accessible to the public as much as is safe and practical. The basement is to be used for mechanical and service functions and may have no general public access. All structures maintained by WILSSA shall comply with all applicable Municipal, State and Federal handicapped accessibility regulations, statutes and codes. The shed is expected to offer a handicapped accessible bathroom.
- e. All other programs, activities and events related to or in furtherance of the purposes of this public Maritime Museum.

3. Free Public Access for Recreation:

Nothing in this ~~a~~AGREEMENT may restrict the public's access to Wood Island itself for park and recreational purposes year round, even when the public Maritime Museum is not in operation and/or during off season with the exception of areas inside designated temporary construction sites or when outside the public Maritime Museum's regular operating hours. No fee will can be charged for public park and recreational use of the PREMISES except as described in Section 21.

4. TERM:

This ~~A~~greement shall be effective from the date the certificate of occupancy is issued for an initial term of twenty-five (205) years.

5. RENEWAL

~~WILSSA has the exclusive option of~~ The TOWN may extending this AGREEMENT for 1 additional twenty (20) year periods successive five (5) year terms upon being satisfied that the terms, conditions, and intent of this AGREEMENT are being met by WILSSA-

~~WILSSA shall mail notice to the TOWN~~ WILSSA shall mail notice to the TOWN of its intent to exercise its ~~option to renew~~ term and be bound to each additional five (5) year option to renew term upon the same terms and conditions of this the a ~~AGREEMENT ninety (90) days prior to expiration of the then existing five (5) year term.~~

6. RENT AND FEES:

WILSSA shall pay no rent for the use of the STATION. In addition, no other costs or fees or taxes of any kind may be levied upon WILSSA or the ~~premises~~ STRUCTURES including, but not limited to, real estate property taxes or special assessments. This is not intended to include any sales, income, etc. taxes or fees that may be required pursuant to State or Federal law.

7. UTILITIES:

WILSSA is solely responsible for the design, construction and payment of costs associated with the operation of any utility or security services on the premises.

145 **8. NO RIGHT TO ASSIGN OR SUBLET:**

146 WILSSA agrees not to assign or sublet any part of the premises without a majority ~~vote of the full~~ Town
147 Council approval, ~~following a public hearing,~~ and affirmed by the National Park Service to the extent it is
148 required. This provision does not preclude WILSSA from contracting with professional service providers
149 or other vendors to assist in operating the station such as charter boat operators to transport visitors to
150 and from Wood Island, subject to all the terms of this AGREEMENT including compliance with all
151 Insurance provisions of Section 15.

152 **9. MAINTENANCE OF STRUCTURES:**

153 During and throughout the term of this agreement, WILSSA shall, at its own expense and at no cost or
154 expense to the TOWN, maintain the STRUCTURES in a safe and ~~attractive~~ orderly manner. A 20-year
155 PRESERVATION AGREEMENT describing maintenance and related conditions for the exterior of the
156 STATION (Exhibit C, "Preservation Agreement") has been ~~approved by the designee of the National Park~~
157 ~~Service and entered into by the~~ TOWN as Grantor and the State of Maine as Grantee. ~~That Agreement~~
158 ~~allows for TOWN to seek other parties to pay for the maintenance costs of the Covenant.~~ WILSSA, at no
159 expense to the TOWN, shall must maintain the exterior of the STATION in accordance with that
160 Agreement on behalf of the TOWN.

161 **10. RESTRICTIONS ON USE AND ACTIVITIES:**

162 During and throughout the term of this Agreement, the use, occupancy and activity of WILSSA, all
163 persons holding by or through WILSSA and all persons who come upon the premises with the consent of
164 the WILSSA are restricted as follows:

165 a. Permitted use. No part of the ~~premises~~ STRUCTURES may be used for any purpose other than as
166 described in this Concession Agreement.

167 b. Hazardous use. No part of the ~~premises~~ STRUCTURES may be used or occupied for any purpose that
168 is extra hazardous on account of fire, explosion, or toxic or radioactive emission or contamination.

169 c. Environmental protection. All activities ~~in or on the premises~~ STRUCTURES and all uses to which any
170 part of the ~~premises~~ STRUCTURES ~~are is~~ are put must comply in all material respects with Federal, State and
171 local environmental protection statutes, laws, rules and regulations, ~~subject to WILSSA's right to contest~~
172 ~~the applicability thereof, during which contest WILSSA may not be deemed in non-compliance.~~ WILSSA
173 must not discharge, nor permit or suffer to be discharged, on or into the ground any substance that may
174 endanger or pollute the groundwater supply in any material respect. WILSSA shall promptly execute
175 and comply in all material respects with all statutes, ordinances, rules, orders, regulations and
176 requirements of the Federal, State, and Local governments having jurisdiction over said premises for the
177 correction, prevention, and abatement of pollution and use of the premises during the term of this
178 Agreement and any renewal thereof.

179 d. Historic Property: ~~The subject property~~ The Wood Island Life Saving Station STRUCTURES ~~are is~~
180 are deemed to be historic (Exhibit D, "Determination of Eligibility") and WILSSA will adequately ensure the
181 preservation of the historic ~~property~~ STRUCTURES per the 20 year Preservation Agreement entered into
182 by TOWN as Grantor and the State of Maine as Grantee to maintain the exterior of the building. Also in

accordance with that Preservation Agreement, any proposed construction, alteration, remodeling, changes of color or surfacing or any other change that would affect the structural integrity, appearance, cultural use, or archeological value of the property requires express prior written approval of the State of Maine through the Director of the Maine Historic Preservation Commission and will be in compliance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures. WILSSA must submit any proposed changes to the property to the Town simultaneously to its submittal for approval to the Director of the Maine Historic Preservation Commission.

11. INSPECTION:

~~TOWN,~~ The National Park Service, and the State Historic Preservation Officer, and their duly authorized representatives have the right to enter into and upon the STATION at a reasonable hour for the purpose of inspection for compliance upon reasonable advance notice to WILSSA. The TOWN's Code Enforcement Officer and the TOWN'S public safety personnel, including Fire and Police, have the right to enter the structures at any time to perform inspections or undertake any activities within their respective functions and jurisdictions.

~~13,~~**12. SURRENDER.**

At the expiration of the initial term or subsequent renewal terms of this AGREEMENT, WILSSA shall surrender the STATION to TOWN with all buildings, structures, and other improvements thereon.

~~14,~~**13. MOVABLE STRUCTURES.**

Machines, trade fixtures and similar installations which are installed in any building, structure, or other improvement on the premises are not deemed to be part of the realty even though such installations are attached to the floors, walls, or roof of any building or structure or to outside pavements, so long as such installation can be removed without structural damage to any building, structure, or other improvement on the premises; provided, however, that if the removal of any such installation damages any part of the building, structure, other improvement, pavements or premises, WILSSA shall repair such damage and restore said building, structure, other improvement, pavements or premises to the same condition as originally existed upon the issuance of a certificate of occupancy, ordinary and usual wear and tear excepted.

~~15,~~**14. PERSONAL PROPERTY.**

Any and all personal property of every kind and nature whatsoever, whether or not attached to or installed in any building, structure, or other improvement which WILSSA places in, upon, or about the premises during the term hereof may be removed there from prior the expiration of the term of this agreement and remain the personal property of WILSSA.

~~16,~~**15. INSURANCE.**

WILSSA shall at its sole expense during the term of this agreement maintain insurance per the specifications and minimum limits set forth herein.

a. Commercial General Liability on an occurrence, as opposed to claims made, basis with general aggregate limit applicable per project and per location.

220 Each occurrence limit: \$1,000,000.00
221 General aggregate limit: \$2,000,000.00
222 Products/Completed operations aggregate limit: \$2,000,000.00

223 b. An additional insured provision is to apply to the TOWN and its respective officers, officials, agents,
224 and employees on a primary, non-contributory basis.

225 c. Automobile liability for owned, hired, and non-owned autos with combined single limit each accident
226 of \$1,000,000. An additional insured, or designated insured, provision is to apply to the TOWN and its
227 respective officers, officials, agents, and employees.

228 d. If there are any employees, workers' compensation insurance to comply with the requirements of
229 Maine statute, plus employers' liability for:

230 Each Accident: \$100,000.00
231 Each Employee (disease): \$100,000.00
232 Policy Limit (disease): \$500,000.00

233 f. If required by Federal Statute, coverage to comply with the Longshore and Harbor Workers'
234 Compensation Act (33 USC Sections 901-950) and/or Merchant Marine Act, 1920 (46 USC Section 688)
235 commonly referenced as the "Jones Act".

236 g. All policies required by this AGREEMENT are to be provided by a company, or companies, admitted to
237 conduct business in the STATE OF MAINE. All policies shall be so written that the Kittery Town Manager
238 will be notified of cancellation or restrictive amendment at least ten (10) days prior to the effective date
239 of such cancellation or amendment. A certificate of insurance from the WILSSA's insurance carrier
240 showing at least the coverage and limits of liability specified above and the inception and expiration
241 dates shall be filed with the Town Manager at least seven (7) calendar days before operations are
242 begun.

243 h. WILSSA agrees to require that any written Agreements between WILSSA and any of its service or
244 material provider(s) will require the same provisions, coverages, and limits as in this Article 15. WILSSA
245 shall obtain an endorsement to its Commercial General Liability policy to cover WILSSA's obligations
246 under this Article.

247 **OTHER TERMS AND CONDITIONS**

248 **17.16. INDEMNITY AND LIMITATION OF LIABILITY**

249 1. WILSSA hereby agrees to indemnify, defend and hold harmless the TOWN and its respective officers,
250 officials, agents, employees, members of boards and committees, with respect to the equipment, work
251 and materials that WILSSA or its subcontractors, employees, agents or representatives have agreed to
252 perform and supply under this AGREEMENT from and against all expenses, losses and claims, demands,
253 payments, suits, actions, liabilities, recoveries, and judgments of any nature and description, other than
254 as a result of the sole negligence of the TOWN, including reasonable attorney's fees, resulting from
255 claims arising out of or related to any act or omission of WILSSA, its agents, employees, contractors,
256 representatives for service or materials provided, in the work and materials that WILSSA has agreed to
257 perform and supply under this AGREEMENT. This obligation to indemnify, defend and hold harmless

does not waive any defense, Immunity or limitation of liability which may be available to the TOWN, its officers, agents, or employees under the Maine Tort Claims Act pursuant to 14 M.R.S. §8101 et. seq.

2. In the event of the commencement of any action against the TOWN, or its respective officers, officials, agents, employees, or members of boards and committees which is within the scope of this indemnification, the TOWN will give notice thereof to WILSSA TOWN within fifteen business days after the TOWN is formally noticed in any such action, and, after consultation with TOWN, WILSSA will have the right to select and furnish counsel for the defense of any such action, at no cost or expense to the TOWN.

3. The TOWN'S failure to give timely notice to WILSSA of the commencement of any such action does not relieve WILSSA of its obligations under this section unless such failure to give timely notice causes actual prejudice to WILSSA's ability to defend any such claim. Except for settlements involving only the payment of money, no settlement which creates an obligation for the TOWN of any such action, or any claim therein, may be made by WILSSA or by counsel selected by WILSSA, without the approval of the TOWN, which approval may not be unreasonably withheld.

4. The extent of WILSSA's indemnification and hold harmless is not limited by the requirements for liability insurance under this AGREEMENT.

5. The provisions of this Article survive the termination of this AGREEMENT.

~~18.~~17. **FORCE MAJEURE**

WILSSA is not liable for any loss or damage due to failure or delay in performance under this Agreement resulting from any unusual or unavoidable cause beyond WILSSA's reasonable control ~~including~~such as, but not limited to: acts of God; acts or omissions of civil or military authority; fires; floods; epidemics; quarantine restrictions; unusually severe weather; strikes or other labor disputes; embargoes; wars; political strife; riots; sabotage; or unusual delay in transportation.

~~19.~~18. **WAIVER:**

Failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, is not deemed to be a waiver by said party of any of said party's rights hereunder. No waiver by either party at any time, expressed or implied, of any breach of any provision of this AGREEMENT may be deemed a waiver of breach of any other provision of this AGREEMENT or a consent to any subsequent breach of the same or any other provision. If any action by either party requires the consent and approval of the other party, the other party's consent to or approval of such action on any one occasion may not be deemed to be a consent to or approval of said action on any subsequent occasion. Any and all rights and remedies which either party may have under this AGREEMENT, upon any breach, are distinct, separate and cumulative and not be deemed inconsistent with each other; and no one of them, whether exercised by said party or not, may be deemed to be an exclusion of any other.

20.19. NON-DISCRIMINATION:

Within the 20 year Preservation Agreement entered into by TOWN as Grantor and the State of Maine as Grantee to maintain the exterior of the building, the TOWN agreed to comply with certain State and Federal laws relating to nondiscrimination on the basis of race, religion, national origin or disability. WILSSA shall agree to must comply with those same terms and conditions.

21.20. ACKNOWLEDGEMENT:

This AGREEMENT and the obligations of the PARTIES hereto are subject to the terms and conditions set forth in the Deed from the USA to the TOWN, dated the 27th day of February, 1973, and recorded at York County Registry of Deeds/Clerks Office at Book 1985, page 201, and the current Program of Utilization which governs the use of the assigned property PREMISES. Violations of the said terms and conditions may be grounds for reversion to the USA, at its discretion and termination of this Agreement. ~~Concessionaire owned personal and real property improvements associated with the real property, may be subject to seizure, without compensation by the USA.~~

22.21. RETENTION OF EARNINGS:

WILSSA may retain any and all income from any fees or any other income from any activities authorized to be conducted by WILSSA pursuant to the terms of this AGREEMENT such as, but not limited to, admissions fees, rental fees, docking and mooring fees, membership fees, merchandise sales, food and beverage sales, lodging fees and royalties. The scheduling and marketing of such authorized activities are at the sole discretion of WILSSA. The values of all such fees and costs, which may be set from time to time at the sole discretion of WILSSA, are to be retained in full by WILSSA for the benefit of STATION and its Purpose, Use and Maintenance. However, fees charged for admission to the Museum will be reasonably nondiscriminatory and comparable to fees charged at similar facilities in the area. WILSSA must provide the TOWN with a schedule of all such fees prior to their implementation.

23.22. TERMINATION

A. TOWN may terminate this AGREEMENT if WILSSA:

- 1) Is in substantial breach of a provision of this AGREEMENT.
- 2) If WILSSA ceases to be an active, functioning Maine non-profit corporation registered to do business under the laws of the STATE of MAINE, and maintaining a presence at Wood Island.

When any of the above conditions exist, TOWN may, without prejudice to any other rights or remedies of TOWN and after giving WILSSA thirty days written notice to remedy above condition and the condition has not been remedied, terminate this AGREEMENT:

B. WILSSA may terminate this AGREEMENT if TOWN:

- 1) Is in substantial breach of a provision of this AGREEMENT document.

If the above conditions exist, WILSSA may, without prejudice to any other remedies or WILSSA and after giving the TOWN thirty (30) days written notice to remedy the above condition and the condition has not been remedied, terminate the AGREEMENT without penalty.

329 **24.23. NOTICE:**

330 Whenever notice is required to be given under the terms of this License, such notice must be in writing
331 and either hand delivered or mailed by certified mail, return receipt requested:

332 If to the WILSSA, to:
333 Wood Island Life Saving Station Assoc.
334 PO Box 11
335 Kittery Pt, ME 03905

336 If to TOWN, to:
337 Town Manager
338 Town of Kittery
339 200 Rogers Road
340 Kittery, ME 03904

341 or to such other addresses as WILSSA or TOWN designate for themselves in the same manner.

342 **25.24. AMENDMENT TO CONCESSION AGREEMENT:**

343 This Concession AGREEMENT contains all the terms and conditions between the parties, and no
344 alteration, amendment, or addition is valid unless in writing and signed by WILSSA and a majority of the
345 full Kittery Town Council. If a substantial amendment is made, written concurrence by the Secretary of
346 the Interior or designee is required in compliance and accordance with the TOWN's Deed from the
347 Federal government.

348 **26.25. OTHER ITEMS:**

349 The terms of the Repair, Maintenance and Use Agreement (Exhibit B, "Agreement Two"), dated _____
350 _____ January 16, 2016, must remain in effect throughout the duration of this
351 Concession AGREEMENT or any renewal term.

352 **26. Captions:**

353 The captions to the paragraphs herein are for convenience only and are not to be deemed inclusive; the
354 Concession AGREEMENT must be interpreted based upon its entire context.

355 **IN WITNESS WHEREOF**, the PARTIES have set their hands and seals or caused this AGREEMENT to be
356 signed by their properly authorized corporate officers and caused their corporate seals to be hereunto
357 affixed this ____ day of _____, 2016.

358 TOWN, by: _____

359 _____

360 [Name] [Title] [Address] [Town, State, Zip Code]

361 WITNESS: _____

362

363 WILSSA, by: _____

364 _____

365 [Name] [Title] [Address] [Town, State, Zip Code]

366 WITNESS:

367 EXHIBIT A: Quitclaim Deed

368 EXHIBIT B: Repair, Maintenance, and Use Agreement (Agreement Two)

369 EXHIBIT C: Preservation Agreement

370 EXHIBIT D: Determination of Eligibility

January 16, 2016

**WOOD ISLAND LIFE SAVING STATION REPAIR, MAINTENANCE, AND USE
AGREEMENT**

This REPAIR, MAINTENANCE and USE AGREEMENT, hereinafter referred to as "AGREEMENT TWO" is made and entered into this __ day of ____, 2016 by and between the Town of Kittery, hereinafter referred to as the "TOWN", and the Wood Island Life Saving Station Association, a Maine non-profit corporation based in Kittery Point, Maine, with a mailing address of P.O. Box 11, Kittery Point, ME 03905, hereinafter called the "WILSSA", collectively called "PARTIES."

WITNESSETH:

Whereas, the TOWN owns certain land, a historic life saving STATION and appurtenances totaling 1.25 acres, obtained by the TOWN from the United States of America, known as Wood Island Life Saving Station, and deeded to the TOWN February 27, 1973, found in Book 1985 Page 201, hereinafter referred to as the "PREMISES". A copy of the quitclaim deed is attached and hereinafter referred to as Exhibit A; and

Whereas, the TOWN and WILSSA use the term STRUCTURES to mean hereinafter the STATION (main building), shed, marine railway, , seawalls, and wreck pole. WILSSA expects to seek approval to construct and maintain a pier, and float extending from the premises and to apply for mooring rights.

Whereas, Condition No. 1 of said Deed states:

"The property shall be used and maintained for the public purposes for which it was conveyed in perpetuity as set forth in the program of utilization and plan contained in the application submitted by the Grantee on the 25th day of October, 1972, as amended the 27th day of November, 1972, which program and plan may be further amended from time to time at the request of either the Grantor or Grantee, with the written recommendation and advice of the other party, and such amendments shall be added to and become a part of the original application;" and

Whereas, such program of utilization referenced above includes a statement that

"the island would be used by boaters in the Piscataqua River as a place to stop for cookouts, picnics, etc. In addition, depending on condition of present buildings it would also be maintained as a point of interest or historic site;" and

Whereas, Condition No. 3 of said Deed states:

38 “The property shall not be sold, leased, assigned, or otherwise disposed of
39 except to another eligible governmental agency that the Secretary of the
40 Interior agrees in writing can assure the continued use and maintenance of
41 the property for a public park or public recreational purposes subject to the
42 same terms and conditions in the original instrument of conveyance.
43 However, nothing in this provisions shall preclude the Grantee from
44 providing recreational facilities and services compatible with the approved
45 application, through concession agreements entered into with third parties,
46 provided prior concurrence to such agreements is obtained in writing from
47 the Secretary of the Interior”; and

48 **Whereas**, it is the intent of both of the PARTIES hereto that the AGREEMENT
49 provided herein does not apply to or extend to any Town property beyond Wood
50 Island; and

51 **Whereas**, WILSSA desires to repair or construct the structures, maintain them and
52 use them as a public maritime museum for the use and enjoyment of the general
53 public; and

54 **Whereas**, the TOWN proposes to allow WILSSA to maintain, repair or construct the
55 STRUCTURES, and use them as a public maritime museum for the use and
56 enjoyment of the general public; and

57 **Whereas**, the PARTIES acknowledge that the property contains hazardous
58 materials and the TOWN has secured \$200,000 in federal Brownfields funding; the
59 abatement of all hazardous materials eligible for federal funding will be undertaken
60 by TOWN with the assistance of WILSSA in terms of planning, timing, budgeting,
61 phasing, approach and vendor selection; and, every effort will be made by the
62 PARTIES to create and publically advertise a scope of work as soon as practical and
63 begin work in the spring of 2016; and

64 **Whereas**, the TOWN and WILSSA expect to finalize a Concession Agreement, as
65 agreed by the National Park Service, that specifies the conditions under which the
66 restored STRUCTURES will be operated for the use and enjoyment of the public by
67 WILSSA; and

68 **Whereas**, TOWN and the Maine State Historic Preservation Office have executed a
69 20 year Preservation Agreement as required by the \$200,000 National Maritime
70 Heritage grant which has been approved by National Park Service that specifies the
71 conditions under which the restored exterior of the STATION will be maintained;
72 and

73 **Whereas**, the legislature of the State of Maine has passed into law an appropriation
74 for \$200,000 in funding to match the National Maritime Heritage grant and to be
75 used for the exterior repairs of the building as soon as the hazardous materials
76 abatement has been completed; and

77 **Whereas**, WILSSA desires to seek additional private, foundation, corporate, state
78 and federal funding or assistance to satisfy the financing of the repairs, maintenance
79 and operation of the STRUCTURES and the TOWN agrees to promptly review, make
80 comments to, and support applications for funding or assistance by WILSSA, or,
81 where the Town deems appropriate, apply for such funds or assistance itself on
82 behalf of WILSSA (such as an application for an innovative readiness training
83 exercise from the Maine National Guard), with the expressed condition that TOWN
84 will not pay for any funding with the exception of the hazardous materials
85 abatement funding described above; and

86 **Whereas**, the TOWN agrees to allow WILSSA to create a procedure for recognizing
87 donors and volunteers to this project, subject to the Town's approval when such
88 procedures involve the use of the Town's name, or property; and

89 **Whereas**, WILSSA and the TOWN agree that a nomination for National Register of
90 Historic Places is appropriate and fitting for the historic STATION and the TOWN
91 agrees not to object to such a nomination and to support it; and

92 **Whereas**, Nothing in this AGREEMENT may restrict the general public's access to
93 Wood Island itself for public park and recreational purposes year round, with the
94 exception of areas designated as temporary construction sites and to the public
95 maritime museum. Visits by the general public to the public maritime museum
96 during its regular hours of operation shall be regulated by WILSSA, subject to any
97 limitations contained in this AGREEMENT.

98 **NOW, THEREFORE**, for the reasons set forth above, and in consideration of the
99 mutual covenants and agreements as hereinafter set forth, WILSSA agrees to
100 undertake the repair and maintain the STRUCTURES and the TOWN agrees to allow
101 WILSSA to maintain, repair or construct the STRUCTURES subject to strict
102 compliance with all the terms and conditions of this AGREEMENT and further
103 provided that WILSSA obtains all permits, licenses, and approvals required by the
104 TOWN's Code Enforcement Officer and other permitting governmental authorities..

105 **1. Exclusive Authority to Maintain, Repair or Construct Structures**

106 The TOWN allows WILSSA to maintain, repair or construct the STRUCTURES in
107 strict compliance with all the terms and conditions of this AGREEMENT, The TOWN
108 agrees not to award contracts or work to any other individual or entity, during the
109 term of this AGREEMENT regarding the STRUCTURES, including, but not limited to,
110 their repair, maintenance or use and the design, scheduling and execution of same
111 without the written approval of WILSSA.

112 **2. Improvements to Inure to the TOWN**

113 Improvements to the STRUCTURES as undertaken, worked on, and completed by
114 WILSSA shall become the sole property of the TOWN.

115 **3. Term**

This AGREEMENT is effective upon execution. This AGREEMENT will expire, unless extended by the mutual written agreement of the PARTIES, 20 years after the issuance of the initial building permit issued to WILSSA by the Kittery Code Enforcement Officer for work on any of the STRUCTURES.

4. Payments, Fees and Royalties

There will be no fee or tax paid by WILSSA to the TOWN for this AGREEMENT or for any matters covered by this AGREEMENT. In addition, the TOWN will impose no other costs upon WILSSA or the STRUCTURES during the term of this AGREEMENT including, but not limited to, real estate property taxes or special assessments. No funds raised by WILSSA will become the property of the TOWN except in accordance with Article 17 or 18 of this Agreement. WILSSA may create and retain any royalties or payments for the use of images and descriptions of the STATION or its activities related to repairing, maintaining or operating the STATION.

5. WILSSA's and TOWN'S Records and Documents / Annual Report of Activities

With respect to all matters covered by this AGREEMENT, WILSSA'S records and documents are subject at reasonable times to inspection, review or audit by the TOWN. With respect to all matters covered by this AGREEMENT, the TOWN'S records and documents are subject at reasonable times to inspection, review or audit by WILSSA. WILSSA must provide to the TOWN a regular report of activities on an annual basis with the first of such report being due from WILSSA to the TOWN one year from the execution date of this AGREEMENT. This report must include milestones reached, approximate contract and volunteer hours expended, funds raised, funds expended, annual budget, forward looking estimates of the tasks ahead, and timelines for completing all repairs and maintenance authorized by this AGREEMENT. TOWN may use this report as it wishes, including using it in whole or in part to satisfy any reporting requirements regarding Wood Island with the National Park Service.

6. Licenses and Permits

All necessary licenses and/or permits to undertake repairs to or construction of the STRUCTURES or any other work to the STRUCTURES requiring a license or permit must be obtained by WILSSA from the appropriate TOWN, State, and Federal permitting or licensing authorities. All fees for TOWN licenses and/or permits and inspections will be waived for work authorized by this AGREEMENT. The issuance of any TOWN permits or permissions must not be unreasonably withheld provided WILSSA complies with all Town, State, and Federal codes, statues, and regulations required for such permits or permissions to issue.

7. Financial Security Package

Before undertaking any repairs or other improvements to the STRUCTURES as permitted under the terms of this AGREEMENT and to insure the satisfactory

performance and completion of such repairs and improvements, WILSSA must establish an Irrevocable Letter Of Credit (LOC) with a Maine licensed bank or other comparable security in an amount of not less than the projected total costs of the proposed repairs and improvements as reflected in the building permit(s). The specific amount, financial institution, form and terms of the LOC or other comparable security or contract to fund the portion of the project to be completed must be approved by the Kittery Town Manager for the purpose of assuring the financial security package meets the intent of this requirement. The Kittery Town Manager may consider in-kind contributions as a part of the financial security package.

8. Repair

WILSSA will select, arrange, design, schedule and supervise any and all aspects of the restoration of the STRUCTURES including all construction and finish work, subject to periodic inspection by the TOWN and any other permitting authority to assure strict compliance with all applicable codes, ordinances, and permits. The TOWN will seek WILSSA's recommendations and advice in terms of planning, timing, phasing, design, budgeting, approach, and vendor selection regarding the hazardous materials abatement.

9. Inspection of Structures

The National Park Service, and the State Historic Preservation Officer and their duly authorized representatives have the right to enter into and upon the STATION at a reasonable hour for the purpose of inspection of the STRUCTURES covered by this AGREEMENT upon reasonable advance notice to WILSSA. The TOWN's Code Enforcement Officer and the TOWN'S public safety personnel, including Fire and Police, have the right to enter the structures at any time to perform inspections or undertake any activities within their respective functions and jurisdictions.

10. Other Terms and Conditions

A. Indemnity and Limitation of Liability

1) WILSSA hereby agrees to indemnify, defend and hold harmless the TOWN and its respective officers, officials, agents, employees, members of boards and committees, with respect to the equipment, work and materials that WILSSA or its subcontractors, employees, agents or representatives have agreed to perform and supply under this AGREEMENT from and against all expenses, losses and claims, demands, payments, suits, actions, liabilities, recoveries, and judgments of any nature and description, other than as a result of the sole negligence of the TOWN, including reasonable attorney's fees, resulting from claims arising out of or related to any act or omission of WILSSA, its agents, employees, contractors, representatives for service or materials provided, in the work and materials that WILSSA has agreed to perform and supply under this AGREEMENT, or by reason of

any suit or claim for royalties, license fees, or infringement of copyright or patent rights arising, or alleged to have arisen, from WILSSA'S performance under this AGREEMENT. This obligation to indemnify, defend and hold harmless does not waive any defense, immunity or limitation of liability which may be available to the TOWN, its officers, agents, or employees under the Maine Tort Claims Act pursuant to 14 M.R.S. §8101 et. seq.

2) In the event of the commencement of any action against the TOWN, or its respective officers, officials, agents, employees, or members of boards and committees which is within the scope of this indemnification, the TOWN will give notice thereof to WILSSA within fifteen business days after the TOWN is formally noticed in any such action, and, after consultation with the TOWN, WILSSA will have the right to select and furnish counsel for the defense of any such action, at no cost or expense to the TOWN.

3) The TOWN'S failure to give timely notice to WILSSA of the commencement of any such action does not relieve WILSSA of its obligations under this section unless such failure to give timely notice causes actual prejudice to WILSSA'S ability to defend any such claim. Except for settlements involving only the payment of money, no settlement which creates an obligation for the TOWN of any such action, or any claim therein, may be made by WILSSA or by counsel selected by WILSSA without the approval of the TOWN, which approval may not be unreasonably withheld.

4) The extent of WILSSA's indemnification and hold harmless is not limited by the requirements for liability insurance under this AGREEMENT.

5) The provisions of this Article 10 survive the termination of this AGREEMENT.

B. Force Majeure

WILSSA is not liable for any loss or damage due to failure or delay in performance under this Agreement resulting from any unusual or unavoidable cause beyond WILSSA's reasonable control such as, but not limited to: acts of God; acts or omissions of civil or military authority; fires; floods; epidemics; quarantine restrictions; unusually severe weather; strikes or other labor disputes; embargoes; wars; political strife; riots; sabotage; unusual delay in transportation.

11. Insurance

A. Coverage and Limits

Once construction begins on the structures and thereafter, WILSSA shall at its sole expense maintain insurance per the specifications and minimum limits set forth herein.

1) Commercial General Liability on an occurrence, as opposed to claims made, basis with general aggregate limit applicable per project and per location.

Each occurrence limit:.....\$1,000,000.00

233 General aggregate limit:.....\$2,000,000.00

234 Products/Completed operations aggregate limit:.....\$2,000,000.00

235 An additional insured provision is to apply to the TOWN and its respective officers,
236 officials, agents, and employees on a primary, non-contributory basis.

237 2) Automobile liability for owned, hired, and non-owned autos with combined
238 single limit each accident of \$1,000,000. An additional insured, or designated
239 insured, provision is to apply to the TOWN and its respective officers, officials,
240 agents, and employees.

241 3) If there are any employees, workers' compensation insurance to comply with the
242 requirements of Maine statute, plus employers' liability for:

243 Each Accident:.....\$100,000.00

244 Each Employee (disease):.....\$100,000.00

245 Policy Limit (disease):.....\$500,000.00

246 4) If required by Federal Statute, coverage to comply with the Longshore and
247 Harbor Workers' Compensation Act (33 USC Sections 901-950) and/or Merchant
248 Marine Act, 1920 (46 USC Section 688) commonly referenced as the "Jones Act".

249 5) All policies required by this AGREEMENT are to be provided by a company, or
250 companies, admitted to conduct business in the State of Maine. All policies shall be
251 so written that the Kittery Town Manager will be notified of cancellation or
252 restrictive amendment at least ten (10) days prior to the effective date of such
253 cancellation or amendment. A certificate of insurance from WILSSA'S insurance
254 carrier showing at least the coverage and limits of liability specified above and the
255 inception and expiration dates shall be filed with the Town Manager at least seven
256 (7) calendar days before operations are begun.6) WILSSA must require that any
257 written Agreements between WILSSA and any of its service or material provider(s)
258 requires the same provisions, coverages, and limits as in this Article 11. WILSSA
259 shall obtain an endorsement to its Commercial General Liability policy to cover
260 WILSSA'S obligations under this Article.

261 7) The TOWN will use its best effort to include WILSSA as an insured party in any
262 agreement with the Abatement Contractor.

263 8) The provisions of this Article 11 survive the termination of this AGREEMENT.

264 **12. Amendment to AGREEMENT**

265 This AGREEMENT contains all the terms and conditions between the PARTIES, and
266 no alteration, amendment, or addition to this AGREEMENT is valid unless in writing
267 and signed by the WILSSA and a majority vote of the full TOWN COUNCIL.

268 **13. Governing Law**

269 This AGREEMENT is governed and interpreted by Maine law.

270 **14. Liens**

WILSSA shall keep the facilities free from any and all liens arising out of any work performed, materials furnished, or obligations incurred by WILSSA during the term of this AGREEMENT or any extension or renewal thereof.

15. Waiver

No waiver by either party at any time, expressed or implied, of any breach of any provision of this AGREEMENT may be deemed a waiver of breach of any other provision of this AGREEMENT or a consent to any subsequent breach of the same or any other provision.

16. Dispute Resolution

Any dispute between the PARTIES arising out of or relating to this AGREEMENT must be resolved in accordance with this Article. Any party may give written notice of a dispute arising out of or related to this AGREEMENT to the other party in person or by certified mail, return receipt requested. The PARTIES must attempt to resolve the matter through informal communication or negotiation for a period of thirty (30) days from the date of receipt of notice by the last party to receive notice. If the dispute has not been resolved within thirty (30) days, either party may serve written notice on the other party of a request for mediation. If the PARTIES mutually agree to mediation, the mediation must be conducted in Maine by a mediator mutually agreeable to the PARTIES, must not exceed one full day or two half days in length, and must be completed within ninety (45) days from the date of receipt of notice of a request for mediation by the last party to receive notice. In the event that the PARTIES are unable to agree on a mediator within thirty (30) days, or to resolve the dispute through mediation within 45 days, the dispute may be submitted to arbitration with the written concurrence of both PARTIES in accordance with the procedures of the Maine Uniform Arbitration Act, 14 M.R.S. §5927 et seq. Nothing in this provision precludes either party from seeking all available legal or equitable remedies following mediation if it is held and arbitration is not agreed to by both PARTIES.

17. Termination by TOWN/ WILSSA for Cause

A. TOWN may terminate this AGREEMENT if WILSSA:

1) Fails to provide timely reports of activities to the TOWN as required by this AGREEMENT.

2) Is in substantial breach of this AGREEMENT.

3) This AGREEMENT may also be terminated by the TOWN in the event that WILSSA ceases to be an active, Maine non-profit corporation registered to do business under the laws of the State of Maine.

When any of the above conditions exist, the TOWN may, without prejudice to any other rights or remedies of the TOWN and after giving WILSSA thirty days written

notice to remedy above condition and the condition has not been remedied within 30 days of such notice, terminate this AGREEMENT and may:

4) Take possession of all improvements made by WILSSA;

5) Maintain the work by whatever reasonable method TOWN may deem expedient using funds available through an Irrevocable Letter Of Credit or other comparable security as referred to in Article 7.

B. WILSSA may terminate this AGREEMENT if the TOWN:

1) Is in substantial breach of this AGREEMENT.

When any of the above conditions exist, WILSSA may, without prejudice to any other remedies or WILSSA and after giving the TOWN thirty (30) days written notice to remedy the above condition and the condition has not been remedied, terminate the AGREEMENT without penalty and may revoke the Letter of Credit or Other Comparable Security.

18. Voluntary Termination

If there is significant damage to the STRUCTURES caused by weather, fire, or vandalism during the effective period of this Agreement, WILSSA will estimate the cost to repair the damage. If those costs exceeded 75% of the cost of replacement of the damaged structures or portion thereof of any one of the STRUCTURES so damaged from fire (including arson), flood, lightning, wind, wave or any act of God beyond the WILSSA'S control during the course of this AGREEMENT that WILSSA is unable or unwilling to repair at their own expense, WILSSA reserves the right to terminate this contract without penalty.

If, in the event of damage to the structures as described above, the TOWN will inquire of WILSSA if WILSSA intends to exercise its right of voluntary termination. WILSSA will answer such an inquiry from the TOWN, when notified, within 60 days and if planning to repair the damage at its own expense will provide a plan of work with timetable to complete the repairs. The TOWN will accept the plan of work and timetable under the same terms and conditions as are in this AGREEMENT.

If WILSSA chooses voluntarily to terminate this AGREEMENT for the reasons stated, any funds available in the letter of credit or other comparable security must be released to the TOWN to be used to help remedy the damage and maintain the property. Any funds remaining from the Letter of Credit or other comparable security after a remedy of the damages and maintenance of the property must be returned to WILSSA.

19. Maintenance of Structures:

At the completion of the repairs of the exterior of the STATION and continuing throughout the duration of this AGREEMENT, WILSSA must, at its own expense and

at no cost or expense to the TOWN but subject to approval of the TOWN and all applicable Town ordinances, maintain the STRUCTURES in a safe and orderly manner. A 20-year Agreement describing maintenance and related conditions for the exterior of the STATION (Exhibit B, "Preservation Agreement") has been entered into by TOWN as Grantor and the State of Maine as Grantee. WILSSA shall maintain the property in accordance with that Agreement on behalf of TOWN, subject to the TOWN's jurisdiction, supervision, and approval.

20. Acknowledgement: Deed Terms and Conditions

This AGREEMENT and the obligations of the parties hereto are subject to the terms and conditions set forth in the deed from the United States of America to the TOWN, dated February 27, 1973, and recorded in the York County Registry of Deeds at Book 1985 Page 201, and the current Program of Utilization referenced in this AGREEMENT.

21. Assignment

WILSSA may not sublet or otherwise transfer in any other way to any party or individual its rights, duties or obligations under this AGREEMENT, either in whole or in part without the prior written consent of the majority vote of the full Town Council, provided further that such sublet or transfer is not in violation of the TOWN's Deed covenants.

22. Notice

Any notice required or permitted to be given by either party hereto to the other is deemed to have been duly given when delivered personally or otherwise actually received after mailing by certified mail, return receipt requested, or by reputable overnight courier or by facsimile (with confirmation of receipt), addressed as follows:

To TOWN:	To WILSSA:
TOWN MANAGER	WOOD ISLAND LIFE SAVING STATION ASSOC.
200 ROGERS ROAD	P.O. BOX 11
KITTERY, ME 03904	KITTERY POINT, ME 03905

Other addresses may be established as the parties hereto may designate by written notice to the other party and delivered in accordance with the provisions of this Article.

24. Rescission and Supersession

The AGREEMENT between the TOWN and WILLSSA, dated October 18th, 2013, and all amendments thereto are superseded and rescinded as from the effective date of this Agreement Two.

25. Severability of Provisions.

384 If any provision, or any portion thereof, contained in this AGREEMENT is held
385 unconstitutional, invalid or unenforceable, the remainder of this AGREEMENT, shall
386 be deemed severable, shall not be affected, and shall remain in full force and effect.

387 **IN WITNESS WHEREOF**, the TOWN has authorized its Town Manager representing
388 the TOWN to sign this AGREEMENT and WILSSA has approved the AGREEMENT and
389 signed as of the date first noted above.

390 **TOWN, by:**_____

391 _____
392 *[Name] [Title] [Address] [TOWN, State, Zip Code]*

393 **WITNESS:**_____

394 **WILSSA, by:**_____

395 _____
[Name] [Title] [Address] [TOWN, State, Zip Code]

396 **WITNESS:**_____

397 **EXHIBIT A. Quitclaim Deed**

398 **EXHIBIT B. Preservation Agreement**

39. TDW
Attorney
DocumentQUITCLAIM DEED

THE UNITED STATES OF AMERICA, acting by and through the Regional Director, Northeast Region, Bureau of Outdoor Recreation, with offices at 1421 Cherry Street, Philadelphia, Pennsylvania, pursuant to authority delegated by the Secretary of the Interior, and as authorized by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, and particularly as amended by Public Law 91-485 (84 Stat. 1084), and regulations and orders promulgated thereunder (hereinafter referred to as Grantor), for and in consideration of the use and maintenance of the property herein conveyed for public park and public recreation purposes in perpetuity by the Town of Kittery, Maine (hereinafter referred to as Grantee), does hereby remise, release, and quitclaim to Grantee, its successors and assigns, subject to the reservations, exceptions, restrictions, conditions and covenants hereinafter set forth, all right, title and interest of the Grantor in and to all that tract or parcel of land known as Wood Island, situated near the mouth of the Piscataqua River, County of York, State of Maine.

The property herein conveyed contains 1.25 acres, more or less, and was formerly known as the Old Portsmouth Harbor Lifeguard Station, U-Me-449A, under the administrative jurisdiction of the Department of Transportation, an agency of the United States Government.

TOGETHER WITH the appurtenances, the buildings and improvements thereon, and all the estate and rights of the Grantor in and to said premises.

SUBJECT TO any and all outstanding reservations, easements and rights-of-way, recorded and unrecorded, for public roads, railroads, pipelines, drainage ditches, sewer mains and lines, and public utilities affecting the property herein conveyed.

TO HAVE AND TO HOLD the above premises, subject to the easements, reservations, exceptions, restrictions, conditions, and covenants herein enumerated and set forth, unto the Grantee, its successors and assigns, forever.

There are excepted from this conveyance and reserved to the Grantor, all oil, gas, and other minerals in, under, and upon the lands herein conveyed, together with the right to enter upon the land for the purpose of mining and recovering the same.

Pursuant to authority contained in the Federal Property and Administrative Services Act of 1949, as amended, and applicable rules, regulations and orders promul-

gated thereunder, the General Services Administration determined the property to be surplus to the needs of the United States of America and assigned the property to the Department of the Interior for conveyance to the Town of Kittery, Maine.

It is understood and agreed by and between the Grantor and Grantee, and Grantee, by acceptance of this deed does acknowledge that it fully understands the terms and conditions set forth herein and does further covenant and agree for itself, and its successors and assigns, forever, as follows:

1. The property shall be used and maintained for the public purposes for which it was conveyed in perpetuity as set forth in the program of utilization and plan contained in the application submitted by Grantee on the 25th day of October, 1972, as amended the 27th day of November, 1972, which program and plan may be further amended from time to time at the request of either the Grantor or Grantee, with the written concurrence of the other party, and such amendments shall be added to and become a part of the original application.
2. The Grantee shall within 6 months of the date of this deed erect and maintain a permanent sign or marker near the point of principal access to the conveyed area indicating that the property is a park or recreational area and has been acquired from the Federal Government for use by the general public.
3. The property shall not be sold, leased, assigned, or otherwise disposed of except to another eligible governmental agency that the Secretary of the Interior agrees in writing can assure the continued use and maintenance of the property for public park or public recreational purposes subject to the same terms and conditions in the original instrument of conveyance. However, nothing in this provision shall preclude the Grantee from providing related recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided prior concurrence to such agreements is obtained in writing from the Secretary of the Interior.
4. From the date of this conveyance, the Grantee, its successors and assigns, shall submit biennial reports to the Secretary of the Interior, setting forth the use made of the property during the preceding two-year period, and other pertinent data

establishing its continuous use for the purposes set forth above, for ten consecutive reports and as further determined by the Secretary of the Interior.

5. If at any time the United States of America shall determine that the premises herein conveyed, or any part thereof, are needed for the national defense, all right, title and interest in and to said premises, or part thereof determined to be necessary to such national defense, shall revert to and become the property of the United States of America.

6. As part of the consideration for this deed, the Grantee covenants and agrees for itself, its successors and assigns, that (1) the program for or in connection with which this deed is made will be conducted in compliance with, and the Grantee, its successors and assigns, will comply with all requirements imposed by or pursuant to the regulations of the Department of the Interior as in effect on the date of this deed (43 C.F.R. Part 17) issued under the provisions of Title VI of the Civil Rights Act of 1964; (2) this covenant shall be subject in all respects to the provisions of said regulations; (3) the Grantee, its successors and assigns, will promptly take and continue to take such action as may be necessary to effectuate this covenant; (4) the United States shall have the right to seek judicial enforcement of this covenant; (5) the Grantee, its successors and assigns, will (a) obtain from each other person (any legal entity) who through contractual or other arrangements with the Grantee, its successors or assigns, is authorized to provide services or benefits under said program, a written agreement pursuant to which such other persons shall, with respect to the services or benefits which he is authorized to provide, undertake for himself, the same obligations as those imposed upon the Grantee, its successors and assigns, by this covenant, and (b) furnish a copy of such agreement to the Secretary of the Interior, or his successor; and that this covenant shall run with the land hereby conveyed, and shall in any event, without regard to technical classification or designation, legal or otherwise, be binding to the fullest extent permitted by law and equity for the benefit of, and in favor of the Grantor and enforceable by the Grantor against the Grantee, its successors and assigns.

7. In the event there is a breach of any of the conditions and covenants herein contained by the Grantee, its successors and assigns, whether caused by the

legal or other inability of the Grantee, its successors and assigns, to perform said conditions and covenants, or otherwise, all right, title, and interest in and to the said premises shall revert to and become the property of the Grantor at its option, which in addition to all other remedies for such breach shall have the right of entry upon said premises, and the Grantee, its successors and assigns, shall forfeit all right, title and interest in said premises and in any and all of the tenements, hereditaments and appurtenances thereunto belonging; provided, however, that the failure of the Secretary of the Interior to require in any one or more instances complete performance of any of the conditions or covenants shall not be construed as a waiver or relinquishment of such future performance, but the obligation of the Grantee, its successors and assigns, with respect to such future performance shall continue in full force and effect:

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed
in its name and on its behalf this the 27th day of February,
1973

~~UNITED~~ STATES OF AMERICA

BE

Regional Director
Northeast Region
Bureau of Outdoor Recreation
1421 Cherry Street
Philadelphia, Pennsylvania

STATE OF Pennsylvania
COUNTY OF Philadelphia } SS

On this 27th day of February, 1973, before me, the subscriber, personally appeared James E. O'Connell, to me known and known to me to be the Regional Director, Northeast Region, Bureau of Outdoor Recreation, of the United States Department of the Interior, a governmental agency of the United States of America, with offices at 1421 Cherry Street, Philadelphia, Pennsylvania, and known to me to be the same person described in and who executed the foregoing instrument as such Regional Director aforesaid, as the act and deed of the United States of America, for and on behalf of the Secretary of the Interior, duly designated, empowered and authorized so to do by said Secretary, and he acknowledged that he executed the foregoing instrument for and on behalf of the United States of America, for the purposes and uses therein described.

NOTARY PUBLIC

My Commission expires:

PAUL AND DEECHER, NOTARY PUBLIC
 1000 14th Street, N.W., Washington, D.C. 20004
 Tel. 202-462-1111

The foregoing conveyance is hereby accepted and the undersigned agrees, by this acceptance, to assume and be bound by all the obligations, conditions, covenants and agreements herein contained.

TOWN OF KITTERY, MAINE

By John R. Kennedy
 Town Manager
 Title

STATE OF Maine)
 COUNTY OF York) ss

Then personally appeared the above named John R. Kennedy, Town Manager, of the Town of Kittery, Maine, and acknowledged that he executed the foregoing instrument as his free act and deed in his said capacity for the purposes therein contained.

Before me,

York, ss.
 Received MAR 22 1973 at 9:25 AM
 and received from the original

[Signature]
 Notary Public
 Title

Aug 10. 7:40 PM
2015
Town
Attorney's
Document

**NATIONAL MARITIME HERITAGE GRANT PROGRAM
PRESERVATION AGREEMENT**

THIS CONVEYANCE is made this ____ day of ____, 2015 pursuant to 33 MRSA §§ 1551-1555 by and between the Town of Kittery, having its location at 200 Rogers Road, Kittery, Maine, hereinafter sometimes called the Grantor, and the State of Maine through the Director of the Maine Historic Preservation Commission, hereinafter sometimes called the Grantee.

WITNESSETH

WHEREAS THE Grantor is owner of certain premises known as the Wood Island Life Saving Station, Wood Island, Kittery, York County, Maine, which premises is eligible to be listed in the National Register of Historic Places (National Register) under the National Historic Preservation Act of 1966 (P.L. 89665, 16 U.S.C. § 470a, *et. seq.*); and

WHEREAS THE sum of \$200,000 in grant-in-aid financial assistance from the National Park Service of the United States Department of the Interior has been granted to the Wood Island Life Saving Station Association (WILSSA) for the purpose of preserving the Wood Island Life Saving Station, a building that is important culturally, historically, and/or architecturally; and

WHEREAS THIS preservation easement is granted as a condition of the eligibility of WILSSA for the financial assistance from the National Park Service of the United States Department of the Interior appropriated from the National Maritime Heritage grant program; and

WHEREAS THE State of Maine through the Director of the Maine Historic Preservation Commission is presently responsible for precluding any activity or omission at the premises which would destroy or impair its value to the public as an historic place; and

WHEREAS THE Grantor is willing to grant to the State of Maine the preservation interest as hereinafter expressed for the purpose of insuring that the value of the premises for such purposes will not be destroyed or impaired.

NOW THEREFORE in consideration of the sum of One Dollar and other valuable consideration paid to the Grantor, the receipt whereof is hereby acknowledged, the Grantor does hereby give, grant, bargain, sell and convey, with covenant of warranty, to the State of Maine a preservation interest in the following described lots or parcel of land, with the buildings and improvements thereon (the real property together with the buildings and improvements thereon and the fixtures attached thereto and the appurtenances thereof, being hereinafter collectively referred to as the "Property") located in Kittery, York County, Maine and described in the York County Registry of Deeds, Book __, Page __.

The preservation interest herein granted shall be of the nature and character hereinafter expressed and shall be binding upon the Grantor; its successors and assigns.

The Property is comprised of grounds, collateral or appurtenant improvements, and the Wood Island Life Saving Station building (hereinafter referred to as the "Building").

In order to make more certain the full extent of Grantor's obligations and the restrictions on the Property, and in order to document the nature and condition of the Property, including significant interior elements in spatial context, a list of character-defining materials, features, and spaces is incorporated as Exhibit "A" at the end of this agreement. To complement Exhibit "A", Grantor personnel have compiled a photographic record, including photographer's affidavit, black and white photographs and negatives, or electronic image files saved as high resolution images, photograph logs, and a keyed location map. The Grantor agrees that the nature and condition of the Property on the date of execution of this easement is accurately documented by the architectural drawings and photographic record, which shall be maintained for the life of this easement in the Grantee's conservation easement file for the Property.

The foregoing description of the Property may be amended, replaced, or elaborated upon in more detail, and a description of the style, landscaping and similar particulars of the grounds, and any collateral or appurtenant improvements on the Property may be added, by an instrument in writing, signed by both parties hereto, making reference to this Preservation Agreement and filed of record in the York County Registry of Deeds. If and when such an instrument is placed of record, it shall be deemed to be a part of this Preservation Agreement as if set out herein.

For the purpose of preserving and protecting the Property, including its significance and value to the public as an historic place, the Grantor does hereby covenant and agree, on behalf of itself, its successors and assigns with the Grantee, its successors and assigns, to the following for a period of twenty (20) years beginning September 30, 2017 or when the exterior of the Building is restored, whichever comes first:

1. The Grantor agrees to assume the cost of continued maintenance and repair of the exterior of the Building, in accordance with *The Secretary of the Interior's Standards for the Treatment of Historic Properties* (see 36 CFR Part 68), so as to preserve the architectural and historical integrity of the Building as documented by the Final Project Report at the conclusion of the grant period. Nothing in this agreement shall prohibit the Grantor from seeking financial assistance from any source available to him.
2. No construction, alteration, remodeling, changes of color or surfacing, or any other thing shall be undertaken or permitted to be undertaken on the Property which would affect the structural integrity, the appearance, the cultural use, or archaeological value of the Property without the express prior written approval of the State of Maine through the Director of the Maine Historic Preservation Commission, or any successor agency.
3. Grantee, its agents and designees shall have the right to inspect the Property at all reasonable times in order to ascertain whether or not the terms and conditions of this Preservation Agreement are being complied with.
4. Grantor agrees to permit public access to view the grant-assisted work no less than 12 days a year on an equitably spaced basis, weather permitting. The Grantor is not required to provide boat access. Nothing in this agreement will prohibit a reasonable nondiscriminatory admission fee, comparable to fees charged at similar facilities in the area.

5. In the event that the Property or any significant part of it shall be damaged or destroyed by fire, flood, windstorm, earth movement, or other casualty, the Grantor shall notify the Grantee in writing within 14 calendar days of the damage or destruction, such notification including what, if any, emergency work has already been completed. No repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the Property and to protect public safety, shall be undertaken by the Grantor without the Grantee's prior written approval indicating that the proposed work will meet the Standards. The Grantee shall give its written approval, if any, of any proposed work within 60 days of receiving the request from the Grantor. If after reviewing the condition of the Property, the Grantee determines that the features, materials, appearance, workmanship, and environment (or setting) which made the Property significant, as documented by the Final Project Report as the conclusion of the grant period, have been lost or irreparably damaged, the Grantee will then notify the Grantor that the agreement is null and void. If the damage or destruction that results in the Property losing its significance is deliberately caused by the gross negligence or other actions of the Grantor or successor owner, then the Grantee will initiate requisite legal action to recover, at a minimum, the Federal grant funds applied to the Property which will then be returned to the U.S. Government.
6. The Grantor has agreed to comply with the Maine Human Rights Act (5 MRSA §§ 4551 *et seq.*).
7. The Grantor has agreed to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, the Americans with Disabilities Act (42 U.S.C. 12204), and with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). These laws prohibit discrimination on the basis of race, religion, national origin, or disability. In implementing public access, reasonable accommodation to qualified disabled persons shall be made in consultation with the Grantee.
8. If the Grantor fails to observe or if the Grantor violates any covenant, agreement, or provision contained herein, then the Grantee shall in addition to all other remedies available at law or in equity, have the right to enforce this Preservation Agreement, including each of its provisions, by specific performance or injunctive relief.
9. The Preservation Agreement set forth herein is intended by the parties hereto to preserve the historic integrity of the Property pursuant to the provisions of 33 MRSA §§ 1551-1555, or other provisions of law that may be applicable.
10. This Preservation Agreement provides the Grantee with additional legal rights and does not supercede or replace any pre-existing legal obligations of the Grantor or legal rights of the Grantee.
11. The Preservation Agreement set forth herein shall be binding upon and shall inure to the benefit of the Grantor and the Grantee and their respective successors and assigns. **TO HAVE AND TO HOLD** the aforegranted and bargained Easement with all the privileges

and appurtenances thereof to the said State of Maine through the Director of the Maine Historic Preservation Commission, its successors and assigns, to its and their use and behoof for a period of twenty (20) years.

12. SEVERABILITY CLAUSE

It is understood and agreed by the parties hereto that if any part, term, or provision of this agreement is held to be illegal by the courts, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular part, term, or provision held to be invalid.

IN WITNESS WHEREOF, the Town of Kittery, signed by

Jeffrey D. Thomson, Jeffrey Pelletier, Charles Denault, Russell White,
Judy Spiller, and Kenneth F. Lenont, its officers
duly authorized and have hereunto set hand and seal for the purpose set forth above, all as of the
day and year first written above.

TOWN OF KITTERY

By See list of signatures
on the next page. Signed
in the wrong place.

Then personally appeared the above named Jeffrey D. Thomson, Jeffrey Pelletier,
Charles Denault, Russell White, Judy Spiller and Kenneth F. Lenont, of
the Town of Kittery, and acknowledged the foregoing instrument to be their free act and deed in
said capacity and the free act and deed of the Town of Kittery, Kittery, Maine.

Before me,

Margann Flare 8/10/15
Notary Public Date
Exp. 4/11/2022

STATE OF MAINE

By Eric D. Fitzpatrick

Name: Earle G. Shettlesworth, Jr.

Title: Director

Then personally appeared the above named Earle G. Shettlesworth, Jr.,
of the Maine Historic Preservation Commission, and acknowledged the foregoing instrument to
be his free act and deed.

Before me,

Claudette Cozme 9/2/15
Notary Public Date

6-1 vote

8/10/15

Jeff D. Thomson



CRK



Clement F. Remont

January 16, 2016

CONCESSION AGREEMENT

Between

TOWN OF KITTERY, MAINE

and

WOOD ISLAND LIFE SAVING STATION ASSOCIATION

This Concession Agreement is made this ____ day of _____, 2016 by and between the TOWN OF KITTERY, a municipal corporation of the State of Maine, with its office at Town Hall, 200 Rogers Road, Kittery ME, 03904, hereinafter referred to as the "TOWN", and the Wood Island Life Saving Station Association, a Maine non-profit corporation based in Kittery Point, Maine with a mailing address at PO Box 11, Kittery Point, ME, 03905 hereinafter referred to as "WILSSA", and collectively as the "PARTIES".

RECITALS

Whereas, the TOWN owns certain land totaling 1.25 acres, historic life saving STATION and appurtenances, obtained by the TOWN from the United States of America (hereinafter referred to as the "USA"), known as Wood Island Life Saving Station, hereinafter referred to as the "PREMISES", which was deeded to the TOWN on February 27, 1973, and found in Book 195 Page 201 of the York County Registry of Deeds. A copy of the quitclaim deed, hereinafter referred to as the "Town's Deed," is attached (Exhibit A, "Quitclaim Deed"); and

Whereas, the TOWN and WILSSA use the term STRUCTURES to mean hereinafter the STATION (main building), shed, marine railway, , seawalls, and wreck pole. WILSSA expects to seek approval to construct and maintain a pier and float extending from the premises and to apply for mooring rights; and

Whereas, Condition No. 1- in the Town's Deed explicitly states as follows:

"The property shall be used and maintained for the public purposes for which it was conveyed in perpetuity as set forth in the program of utilization and plan contained in the application submitted by the Grantee on the 25th day of October, 1972, as amended the 27th day of November, 1972, which program and plan may be further amended from time to time at the request of either the Grantor or Grantee, with the written recommendation and advice of the other party, and such amendments shall be added to and become a part of the original application" and

Whereas, such program of utilization referenced above includes a statement that

"the island would be used by boaters in the Piscataqua River as a place to stop for cookouts, picnics, etc. In addition, depending on condition of present buildings it would also be maintained as a point of interest or historic site;" and

Whereas, Condition No. 3 in the Town's Deed expressly stated:

"The property shall not be sold, leased, assigned, or otherwise disposed of except to another eligible governmental agency that the Secretary of the Interior agrees in writing can assure the continued use and maintenance of the property for a public park or public recreational purposes subject to the same terms and conditions in the original instrument of conveyance. However, nothing in this provisions shall preclude the Grantee from providing recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided concurrence to such agreements is obtained in writing from the Secretary of the Interior; and

Whereas, as required by express terms of the Town's Deed, it is anticipated that the Secretary of the Interior will provide written concurrence to this Concession Agreement; and

Whereas, the PARTIES have entered into a separate MAINTENANCE AGREEMENT (Exhibit B, "Agreement Two") for WILSSA to repair the STRUCTURES, maintain them and use them for the enjoyment of the general public including a public Maritime Museum; and

Whereas, the PARTIES desire to specify the conditions under which the premises will be used for the for the use and enjoyment of the general public for public park and recreational use and including a public Maritime Museum, and to allow WILSSA to raise funds for the expenses of the maintenance, construction, operation and other costs for maintaining the STRUCTURES on the premises; and

Whereas, the primary purposes of that portion of the premises being used as a public Maritime Museum to be maintained by WILSSA, pursuant to this Concession Agreement, are the preservation of historical artifacts; the presentation of historical information; and, the offering of demonstrations and interactive exhibits of the maritime heritage of the Wood Island Life Saving Station; and

Whereas, the maintenance and proposed use of the STRUCTURES by WILSSA must be consistent with the TOWN's best interest.

NOW, THEREFORE, for the reasons set forth above, and in consideration of the mutual promises, and covenants, of this Agreement, as hereinafter set forth, the TOWN agrees to allow WILSSA to establish, maintain and operate a public Maritime Museum on the Town's property and at Wood Island.

1. LOCATION:

The TOWN allows WILSSA to use a portion of Wood Island consisting of the Wood Island Life Saving Station and STRUCTURES which are part of the PREMISES described in Exhibit A. The surrounding PREMISES of Wood Island, totally 1.25 acres, may also be used by WILSSA for the purposes stated herein but must remain open for public park and recreational use at all times subject to the terms and conditions contained in the TOWN's Deed, attached as Exhibit A.

2. USE OF PREMISES:

Under the TOWN's Deed the PREMISES must be used for public park and public recreational use, but WILSSA may use the STRUCTURES for a public Maritime Museum with access to the general public.

All uses undertaken by WILSSA pursuant to this Agreement must strictly comply with local land use ordinances, as well all local, state, and federal permits and regulations. TOWN acknowledges that this Concession Agreement is exclusive to WILSSA for the purpose of operating a public maritime museum during the term of this AGREEMENT. This provision does not preclude WILSSA from contracting with professional service providers, or other vendors, to assist in operating the station such as charter boat operators to transport visitors to and from Wood Island, subject to compliance with all provisions of this AGREEMENT.

The premises may be used only for the following purposes, programs and activities, subject to all applicable Town, State, and Federal permits and approvals:

- a. A public museum will occupy the first floor, the observation tower and portions of the property, depicting the history of Wood Island, specifically the roles of the US Life Saving Service from 1908 to 1915; the US Coast Guard from 1916 to 1941 and 1945 to 1948; and, the US Navy from 1941 to 1945.
- b. Demonstrations of life saving operations, displays of life saving equipment and implements and demonstrations of their use, methods and types of life saving and lifesaving architecture nationwide and interior furnishings that replicate what life was like in the STATION for the men that served there.
- c. Fund raising and income creating activities and programs for the benefit of the Museum. Fees charged for admission to the public Museum will be reasonably nondiscriminatory and comparable to fees charged at similar facilities in the area. The public Museum must be open seasonally to the general public for such periods (months, days and hours) as determined by the agreement of WILSSA and subject to the prior approval of Town Council.
- d. Office and lodging space to support the public Museum may be provided on the second floor with limited public access, provided that such use complies with Town ordinances. The tower is intended to be accessible to the public as much as is safe and practical. The basement is to be used for mechanical and service functions and may have no general public access. All structures maintained by WILSSA shall comply with all applicable Municipal, State and Federal handicapped accessibility regulations, statutes and codes. The shed is expected to offer a handicapped accessible bathroom.
- e. All other programs, activities and events related to or in furtherance of the purposes of this public Maritime Museum.

3. Free Public Access for Recreation:

Nothing in this AGREEMENT may restrict the public's access to Wood Island itself for park and recreational purposes year round, even when the public Maritime Museum is not in operation and/or during off season with the exception of areas inside designated temporary construction sites or when outside the public Maritime Museum's regular operating hours. No fee can be charged for public park and recreational use of the PREMISES.

4. TERM:

This Agreement shall be effective from the date the certificate of occupancy is issued for an initial term of five (5) years.

5. RENEWAL

The TOWN may extend this AGREEMENT for successive five (5) year terms upon being satisfied that the terms, conditions, and intent of this AGREEMENT are being met by WILSSA

WILSSA shall mail notice to the TOWN of its intent to enter and be bound to each additional five (5) year renewal term upon the same terms and conditions of this AGREEMENT ninety (90) days prior to expiration of the then existing five (5) year term.

6. RENT AND FEES:

WILSSA shall pay no rent for the use of the STATION. In addition, no other costs or fees or taxes of any kind may be levied upon WILSSA or the STRUCTURES including, but not limited to, real estate property taxes or special assessments. This is not intended to include any sales, income, etc. taxes or fees that may be required pursuant to State or Federal law.

7. UTILITIES:

WILSSA is solely responsible for the design, construction and payment of costs associated with the operation of any utility or security services on the premises.

8. NO RIGHT TO SUBLET:

WILSSA agrees not to sublet any part of the premises without a majority vote of the full Town Council, following a public hearing, and affirmed by the National Park Service to the extent it is required. This provision does not preclude WILSSA from contracting with professional service providers or other vendors to assist in operating the station such as charter boat operators to transport visitors to and from Wood Island, subject to all the terms of this AGREEMENT including compliance with all Insurance provisions of Section 15.

9. MAINTENANCE OF STRUCTURES:

During and throughout the term of this agreement, WILSSA shall, at its own expense and at no cost or expense to the TOWN, maintain the STRUCTURES in a safe and orderly manner. A 20-year PRESERVATION AGREEMENT describing maintenance and related conditions for the exterior of the STATION (Exhibit C, "Preservation Agreement") has been entered into by the TOWN as Grantor and the State of Maine as Grantee. . WILSSA, at no expense to the TOWN, must maintain the exterior of the STATION in accordance with that Agreement on behalf of the TOWN.

10. RESTRICTIONS ON USE AND ACTIVITIES:

During and throughout the term of this Agreement, the use, occupancy and activity of WILSSA, all persons holding by or through WILSSA and all persons who come upon the premises with the consent of the WILSSA are restricted as follows:

a. Permitted use. No part of the STRUCTURES may be used for any purpose other than as described in this Concession Agreement.

b. Hazardous use. No part of the STRUCTURES may be used or occupied for any purpose that is extra hazardous on account of fire, explosion, or toxic or radioactive emission or contamination.

c. Environmental protection. All activities in or on the STRUCTURES and all uses to which any part of the STRUCTURES are put must comply in all material respects with Federal, State and local environmental protection statutes, laws, rules and regulations. WILSSA must not discharge, nor permit or suffer to be discharged, on or into the ground any substance that may endanger or pollute the groundwater supply in any material respect. WILSSA shall promptly execute and comply in all material respects with all statutes, ordinances, rules, orders, regulations and requirements of the Federal, State, and Local governments having jurisdiction over said premises for the correction, prevention, and abatement of pollution and use of the premises during the term of this Agreement and any renewal thereof.

d. Historic Property: The Wood Island Life Saving Station STRUCTURES are deemed to be historic (Exhibit D, "Determination of Eligibility") and WILSSA will adequately ensure the preservation of the historic STRUCTURES per the 20 year Preservation Agreement entered into by TOWN as Grantor and the State of Maine as Grantee to maintain the exterior of the building. Also in accordance with that Preservation Agreement, any proposed construction, alteration, remodeling, changes of color or surfacing or any other change that would affect the structural integrity, appearance, cultural use, or archeological value of the property requires express prior written approval of the State of Maine through the Director of the Maine Historic Preservation Commission and will be in compliance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures. WILSSA must submit any proposed changes to the property to the Town simultaneously to its submittal for approval to the Director of the Maine Historic Preservation Commission.

11. INSPECTION.

The National Park Service and the State Historic Preservation Officer, and their duly authorized representatives have the right to enter into and upon the STATION at a reasonable hour for the purpose of inspection for compliance upon reasonable advance notice to WILSSA. The TOWN's Code Enforcement Officer and the TOWN'S public safety personnel, including Fire and Police, have the right to enter the structures at any time to perform inspections or undertake any activities within their respective functions and jurisdictions. Surrender.

At the expiration of the initial term or subsequent renewal terms of this AGREEMENT, WILSSA shall surrender the STATION to TOWN with all buildings, structures, and other improvements thereon.

12. MOVABLE STRUCTURES.

Machines, trade fixtures and similar installations which are installed in any building, structure, or other improvement on the premises are not deemed to be part of the realty even though such installations are attached to the floors, walls, or roof of any building or structure or to outside pavements, so long as such installation can be removed without structural damage to any building, structure, or other improvement on the premises; provided, however, that if the removal of any such installation damages any part of the building, structure, other improvement, pavements or premises, WILSSA shall repair such damage and restore said building, structure, other improvement, pavements or premises to the same

184 condition as originally existed upon the issuance of a certificate of occupancy, ordinary and usual wear
185 and tear excepted.

186 **13. PERSONAL PROPERTY.**

187 Any and all personal property of every kind and nature whatsoever, whether or not attached to or
188 installed in any building, structure, or other improvement which WILSSA places in, upon, or about the
189 premises during the term hereof may be removed there from prior the expiration of the term of this
190 agreement and remain the personal property of WILSSA.

191 **14. INSURANCE.**

192 WILSSA shall at its sole expense during the term of this agreement maintain insurance per the
193 specifications and minimum limits set forth herein.

194 a. Commercial General Liability on an occurrence, as opposed to claims made, basis with general
195 aggregate limit applicable per project and per location.

196	Each occurrence limit:	\$1,000,000.00
197	General aggregate limit:	\$2,000,000.00
198	Products/Completed operations aggregate limit:	\$2,000,000.00

199 b. An additional insured provision is to apply to the TOWN and its respective officers, officials, agents,
200 and employees on a primary, non-contributory basis.

201 c. Automobile liability for owned, hired, and non-owned autos with combined single limit each accident
202 of \$1,000,000. An additional insured, or designated insured, provision is to apply to the TOWN and its
203 respective officers, officials, agents, and employees.

204 d. If there are any employees, workers' compensation insurance to comply with the requirements of
205 Maine statute, plus employers' liability for:

206	Each Accident:	\$100,000.00
207	Each Employee (disease):	\$100,000.00
208	Policy Limit (disease):	\$500,000.00

209 f. If required by Federal Statute, coverage to comply with the Longshore and Harbor Workers'
210 Compensation Act (33 USC Sections 901-950) and/or Merchant Marine Act, 1920 (46 USC Section 688)
211 commonly referenced as the "Jones Act".

212 g. All policies required by this AGREEMENT are to be provided by a company, or companies, admitted to
213 conduct business in the STATE OF MAINE. All policies shall be so written that the Kittery Town Manager
214 will be notified of cancellation or restrictive amendment at least ten (10) days prior to the effective date
215 of such cancellation or amendment. A certificate of insurance from the WILSSA's insurance carrier
216 showing at least the coverage and limits of liability specified above and the inception and expiration
217 dates shall be filed with the Town Manager at least seven (7) calendar days before operations are
218 begun.

h. WILSSA agrees to require that any written Agreements between WILSSA and any of its service or material provider(s) will require the same provisions, coverages, and limits as in this Article 15. WILSSA shall obtain an endorsement to its Commercial General Liability policy to cover WILSSA's obligations under this Article.

OTHER TERMS AND CONDITIONS

15. INDEMNITY AND LIMITATION OF LIABILITY

1. WILSSA hereby agrees to indemnify, defend and hold harmless the TOWN and its respective officers, officials, agents, employees, members of boards and committees, with respect to the equipment, work and materials that WILSSA or its subcontractors, employees, agents or representatives have agreed to perform and supply under this AGREEMENT from and against all expenses, losses and claims, demands, payments, suits, actions, liabilities, recoveries, and judgments of any nature and description, other than as a result of the sole negligence of the TOWN, including reasonable attorney's fees, resulting from claims arising out of or related to any act or omission of WILSSA, its agents, employees, contractors, representatives for service or materials provided, in the work and materials that WILSSA has agreed to perform and supply under this AGREEMENT. This obligation to indemnify, defend and hold harmless does not waive any defense, Immunity or limitation of liability which may be available to the TOWN, its officers, agents, or employees under the Maine Tort Claims Act pursuant to 14 M.R.S. §8101 et. seq.

2. In the event of the commencement of any action against the TOWN, or its respective officers, officials, agents, employees, or members of boards and committees which is within the scope of this indemnification, the TOWN will give notice thereof to WILSSA within fifteen business days after the TOWN is formally noticed in any such action, and, after consultation with TOWN, WILSSA will have the right to select and furnish counsel for the defense of any such action, at no cost or expense to the TOWN.

3. The TOWN'S failure to give timely notice to WILSSA of the commencement of any such action does not relieve WILSSA of its obligations under this section unless such failure to give timely notice causes actual prejudice to WILSSA's ability to defend any such claim. Except for settlements involving only the payment of money, no settlement which creates an obligation for the TOWN of any such action, or any claim therein, may be made by WILSSA or by counsel selected by WILSSA, without the approval of the TOWN, which approval may not be unreasonably withheld.

4. The extent of WILSSA's indemnification and hold harmless is not limited by the requirements for liability insurance under this AGREEMENT.

5. The provisions of this Article survive the termination of this AGREEMENT.

16. FORCE MAJEURE

WILSSA is not liable for any loss or damage due to failure or delay in performance under this Agreement resulting from any unusual or unavoidable cause beyond WILSSA's reasonable control such as, but not limited to: acts of God; acts or omissions of civil or military authority; fires; floods; epidemics; quarantine restrictions; unusually severe weather; strikes or other labor disputes; embargoes; wars; political strife; riots; sabotage; or unusual delay in transportation.

17. WAIVER:

Failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, is not deemed to be a waiver by said party of any of said party's rights hereunder. No waiver by either party at any time, expressed or implied, of any breach of any provision of this AGREEMENT may be deemed a waiver of breach of any other provision of this AGREEMENT or a consent to any subsequent breach of the same or any other provision. If any action by either party requires the consent and approval of the other party, the other party's consent to or approval of such action on any one occasion may not be deemed to be a consent to or approval of said action on any subsequent occasion. Any and all rights and remedies which either party may have under this AGREEMENT, upon any breach, are distinct, separate and cumulative and not be deemed inconsistent with each other; and no one of them, whether exercised by said party or not, may be deemed to be an exclusion of any other.

18. NON-DISCRIMINATION:

Within the 20 year Preservation Agreement entered into by TOWN as Grantor and the State of Maine as Grantee to maintain the exterior of the building, the TOWN agreed to comply with certain State and Federal laws relating to nondiscrimination on the basis of race, religion, national origin or disability. WILSSA must comply with those same terms and conditions.

19. ACKNOWLEDGEMENT:

This AGREEMENT and the obligations of the PARTIES hereto are subject to the terms and conditions set forth in the Deed from the USA to the TOWN, dated the 27th day of February, 1973, and recorded at York County Registry of Deeds/Clerks Office at Book 1985, page 201, and the current Program of Utilization which governs the use of the PREMISES. .

20. RETENTION OF EARNINGS:

WILSSA may retain any and all income from any fees or any other income from any activities authorized to be conducted by WILSSA pursuant to the terms of this AGREEMENT. The scheduling and marketing of authorized activities are at the sole discretion of WILSSA. The values of all such fees and costs, which may be set from time to time at the sole discretion of WILSSA, are to be retained in full by WILSSA for the benefit of STATION and its Purpose, Use and Maintenance. However, fees charged for admission to the Museum will be reasonably nondiscriminatory and comparable to fees charged at similar facilities in the area. WILSSA must provide the TOWN with a schedule of all such fees prior to their implementation.

21. TERMINATION

A. TOWN may terminate this AGREEMENT if WILSSA:

- 1) Is in substantial breach of a provision of this AGREEMENT.
- 2) If WILSSA ceases to be an active, functioning Maine non-profit corporation registered to do business under the laws of the STATE of MAINE, and maintaining a presence at Wood Island.

When any of the above conditions exist, TOWN may, without prejudice to any other rights or remedies of TOWN and after giving WILSSA thirty days written notice to remedy above condition and the condition has not been remedied, terminate this AGREEMENT:

B. WILSSA may terminate this AGREEMENT if TOWN:

1) Is in substantial breach of a provision of this AGREEMENT document.

If the above conditions exist, WILSSA may, without prejudice to any other remedies or WILSSA and after giving the TOWN thirty (30) days written notice to remedy the above condition and the condition has not been remedied, terminate the AGREEMENT without penalty.

22. NOTICE:

Whenever notice is required to be given under the terms of this License, such notice must be in writing and either hand delivered or mailed by certified mail, return receipt requested:

If to the WILSSA, to:

Wood Island Life Saving Station Assoc.

PO Box 11

Kittery Pt, ME 03905

If to TOWN, to:

Town Manager

Town of Kittery

200 Rogers Road

Kittery, ME 03904

or to such other addresses as WILSSA or TOWN designate for themselves in the same manner.

23. AMENDMENT TO CONCESSION AGREEMENT:

This Concession AGREEMENT contains all the terms and conditions between the parties, and no alteration, amendment, or addition is valid unless in writing and signed by WILSSA and a majority of the full Kittery Town Council. If a amendment is made, written concurrence by the Secretary of the Interior is required in compliance and accordance with the TOWN's Deed from the Federal government.

24. OTHER ITEMS:

The terms of the Repair, Maintenance and Use Agreement (Exhibit B, "Agreement Two"), January 16, 2016, remains in effect throughout the duration of this Concession AGREEMENT or any renewal term.

26. Captions:

The captions to the paragraphs herein are for convenience only and are not to be deemed inclusive; the Concession AGREEMENT must be interpreted based upon its entire context.

IN WITNESS WHEREOF, the PARTIES have set their hands and seals or caused this AGREEMENT to be signed by their properly authorized corporate officers and caused their corporate seals to be hereunto affixed this ____ day of _____, 2016.

327 TOWN, by: _____

328 _____

329 [Name] [Title] [Address] [Town, State, Zip Code]

330 WITNESS: _____

331

332 WILSSA, by: _____

333 _____

334 [Name] [Title] [Address] [Town, State, Zip Code]

335 WITNESS:

336 EXHIBIT A: Quitclaim Deed

337 EXHIBIT B: Repair, Maintenance, and Use Agreement (Agreement Two)

338 EXHIBIT C: Preservation Agreement

339 EXHIBIT D: Determination of Eligibility

**REPORT to THE KITTERY TOWN COUNCIL: Wood Island Life Saving Station
Approval of Repair Agreement Amendments and Concession Agreement**

1 **Date:** January 19, 2016

2 **Responsible Individual:** Wood Island Life Saving Station Association. Sam Reid, President.

3 **Subject:** Approval of 1) Wood Island Life Saving Station Repair, Maintenance and Use
4 Agreement called "Agreement Two" dated January 19, 2016 and 2) Concession Agreement
5 Between Town of Kittery, Maine and Wood Island Life Saving Station Association dated
6 January 19, 2016.

7

8 **EXECUTIVE SUMMARY:**

9 *For a more detailed write up of this report to Council, please refer to the Council package for*
10 *the December 14, 2015 meeting.*

11 The Wood Island Life Saving Station Association (WILSSA) proposes to repair and reuse the
12 historic 1908 life saving station owned by Kittery that is a current liability to the Town. The
13 Town will be indemnified, fully insured and will not have to pay for this restoration or its
14 ongoing maintenance. The details of all restoration work will be overseen by the State of Maine
15 Historic Preservation Officer. In order to advertise the bid package to start this project, WILSSA
16 is seeking two contracts (Repair Agreement Two and the Concession Agreement) that will allow
17 it to fully restore the building and surrounding area as well as operate a maritime museum open
18 to the public in the space after the restoration. The bid package is ready to be advertised and time
19 is of the essence as the project must begin in the spring of 2016 or lose its funding.

20 Drafts of these two contracts were initially provided to Council on July 13, 2015. A vote of
21 Council on August 10, 2015 authorized the Town Manager and the WILSSA President to finalize
22 the contracts. Final drafts reflecting the input of the Town Manager and WILSSA were brought
23 to Council on December 14. Council voted at that meeting to request legal review of the
24 "Agreement Two" by January 11, 2016 and authorized the Town Manager, the Town's legal
25 counsel, the WILSSA President and the National Park Service to review, edit if necessary and
26 finalize the concession agreement as soon as possible and bring back to Council for final
27 approval.

28 The Chief Historian of the National Park Service, Bob Sutton, wrote in an email to Sam Reid,
29 President of WILSSA on December 17 that Park Service would accept a concession agreement
30 reached between WILSSA and Kittery for the use of the restore life saving station. He wrote
31 "(the concession agreement) is between you and the Town." There is no need for additional
32 review from that federal agency on this matter.

33 Both documents have been reviewed by Council and / or the public over at least a six month
34 period. There have been two public workshops hosted by Council and numerous agenda items
35 over six council meetings on this subject. The contracts have been approved by the Board of
36 WILSSA. The Town Manager and the Town's legal counsel have provided extensive input.
37 That legal review has been taken into account and the final versions provided here by WILSSA
38 represent what WILSSA will accept from that work. A summary of the "substantive policy
39 difference remaining" between the Town's legal counsel's version and WILSSA's version is
40 attached. Comments have been received from many parties and changes made through this

REPORT to THE KITTERY TOWN COUNCIL: Wood Island Life Saving Station Approval of Repair Agreement Amendments and Concession Agreement

exhaustive process. The contracts are now ready for the approval of Council. Approval is recommended.

Time is of the essence as the project will be delayed for a spring 2016 start without Council's approval of these documents at their January 25 meeting. Missing the 2016 construction season is exceptionally serious as the \$200,000 in EPA funding for cleaning the hazardous materials in the building must be spent in 2016 as they are set to expire in the spring of 2017.

FACTS BEARING ON THE EQUATION:

Repair Agreement Amendments:

There are three substantive changes being proposed to the existing repair agreement that has already been approved by Council. They are:

1) Allow for the full restoration project to be accomplished.

2) Clarify what happens after the clean up and exterior repairs are complete.

3) Specify that WILSSA will be responsible for ongoing maintenance.

4) Other items. Kittery concurs that an application for this building to be listed on the National Register of Historic Places is appropriate. The State appropriation and Federal grant are described as appropriate funding sources. Kittery will support WILSSA's efforts to raise funds for the project. Records regarding the project will be shared between Kittery and WILSSA. A pier, floats, moorings and wreck pole are added to the definition of "structures".

Concession Agreement:

The Concession Agreement is entirely new. According to the "Concession Agreements Guidance" document created by the National Park Service for public benefit conveyance properties such as Wood Island, ***"concessions are private businesses (or non-profits) operating under contract in a state/county/municipal park or recreational area to provide products and services intended to enhance the park visitor's experience."*** The proposed concession agreement for Wood Island has followed the "Concession Agreement Guidance" document from Park Service.

In summary, the property will be used as a maritime museum for the use of the public. The term of the agreement is 20 years with an option for an additional 20 years. No rent or fees will be charged for the agreement. WILSSA will be responsible for the ongoing maintenance and income from the property will be used for the benefit of the museum. There will be no restrictions and no charge for the use of Wood Island by the public at any time, even when the museum is closed or during the off-season.

**REPORT to THE KITTERY TOWN COUNCIL: Wood Island Life Saving Station
Approval of Repair Agreement Amendments and Concession Agreement**

BACKGROUND:

A comprehensive background description of the effort to prevent the demolition of this historic station is available on line at the web site of Wood Island Life Saving Station Association under the tab “The Update” or by clicking on <http://woodislandlifesaving.org/the-plan/>

THIS IS A HISTORICALLY SIGNIFICANT BUILDING:

Although there is much to discuss regarding the history since 2009 of the grassroots effort to save this building from demolition by its owner, what is regularly overlooked is that it is a historically significant building. It is more historically significant, in fact, than any of the supporters knew until recently. It has been designated as “eligible” for listing on the National Register for Historic Places.

CURRENT SITUATION:

The current condition of Wood Island Station is very poor. It is a serious hazard to visitors to the island, a public park. \$640,000 has been raised in state and federal grants with more than \$100,000 in additional private funding has also been raised to remedy this problem. Since it is a historic building, the State of Maine Historic Preservation Officer is currently reviewing the final scope of work for the project to restore the Station. That contract is expected to be advertised in the next few weeks for work to begin in the spring. Time is of the essence for Council to act to approve these two documents to prevent unnecessary delay of this important work.

PROPOSED SOLUTION / RECOMMENDATION

Approve the two proposed documents.

RATIONALE FOR THE PROPOSED SOLUTION / RECOMMENDATION

The funding is in place for the first phase of this project, the clean up and exterior repair. That work will be ready to begin in the spring of 2016 with the approval of these two contracts.

Assuming a worse case that no additional funds are raised ever and / or WILSSA fails entirely after that first phase, the result will be a significant benefit for Kittery. In that worst case scenario the historic station will be saved and Kittery will have avoided spending at least \$255,000 to have it cleaned and removed.

What is more, WILSSA is offering to pay for ongoing maintenance for the repaired structure. Assuming that WILSSA fails after the first phase and the Town is left on the hook for ongoing maintenance, there is also a benefit. The maintenance of a completely restored building will be small and the challenge of how to clean and repair the station will have been answered with a safe and lovely new exterior for the building.

But without amendments to the existing agreement, the federal funds will not be able to be spent, and that outcome would be the real worst case for Kittery – the failure of the first phase and the loss of the federal and state funds. The EPA money is on a short time line as it will expire in the

REPORT to THE KITTERY TOWN COUNCIL: Wood Island Life Saving Station Approval of Repair Agreement Amendments and Concession Agreement

spring of 2017. It must be spent in 2016. The Park Service money can't be spent until the EPA money has cleaned the building. The State money is a match for the Park Service funding.

All of these pieces hang together, and they all speak to amending the existing repair agreement and approving a concession agreement now to allow work to begin in the spring of 2016.

CONCLUSION

Kittery has a serious liability in Wood Island Station. A non-profit, WILSSA, was formed in 2011 and, through an October 2013 contract with Kittery (the "Repair Agreement"), has raised substantial funding and secured numerous permits to resolve that liability at no cost to the Town. The first phase of work, the clean up of hazardous materials found throughout the building and the repair of the building's exterior will be ready to begin in the spring of 2016. But the current agreement between the Town and the non-profit will not allow the historic 1907 life saving station to be fully restored or opened to the public. In fact, without amendment to the current agreement, the first phase of the project will not be able to proceed as only exterior repairs are allowed. It is also currently unclear what will happen to the station after the clean up and exterior repair are accomplished.

Two contracts that were first provided in draft form to Kittery's Wood Island Advisory Committee in May of 2015 and to the full Town Council in July of 2015 would answer those issues and are ready for approval. What is more, the calendar is becoming crowded to be able to put the final bid package out to the public and have the work begin this spring without this approval now. The Maine State Historic Preservation Office is currently reviewing the scope of work to be sure that there are no "adverse impacts" to the historic fabric of the historic building using federal funds.

In order to allow for the public to enjoy the restored station, the repair agreement must be amended to allow for the full restoration to occur, not just the exterior work. Also, a concession agreement is allowed by the 1973 quit claim deed from National Park Service to Kittery to have third parties operate the property for the enjoyment of the public. Council has already voted its interest in having such an agreement created. Park Service's Chief Historian has indicated the position of the agency is to support whatever agreement WILSSA and Kittery can finalize.

WILSSA has proven decisively that even though it is a non-profit with only a five year history it is well qualified to follow through on not only the first phase of this project, the clean up and exterior repair, but the entire undertaking. Substantial additional funds remain to be raised for Wood Island Station to be fully restored and open to the public. WILSSA's board has demonstrated that it was up to the task of fund raising for the first phase, the clean up and exterior repairs. What is more, it has been up to the task of navigating the complex federal, state and local permissions to do the work. Now is the time to give WILSSA the authority to continue to raise funds to finish the job.

It should be noted that much of the work necessary to restore the building and grounds fully has already been accomplished. Plans and / or permits applications are in place or are pending for the restoration of the sea walls, the dock, and the full building's restoration. Planning is underway for the museum portion of the project including presentations, exhibits, and demonstrations.

**REPORT to THE KITTERY TOWN COUNCIL: Wood Island Life Saving Station
Approval of Repair Agreement Amendments and Concession Agreement**

162 What is before Council is a remarkable historic preservation success in the making. For Council
163 to realize that outcome a vote to approve the two documents is recommended. A rejection of
164 these documents would expose Kittery to ongoing liability and expense as well as the loss of an
165 asset that has proven to be even more historically significant than even its supporters realized.
166 The worst case scenario for Kittery after the first phase is completed is attractive compared to the
167 current state. A rejection of these documents, however, would put at risk the substantial funding
168 that has already been raised. That is the true worst case for Kittery, the potential failure of the
169 clean up and exterior repair in 2016.

170 **REQUEST:**

171 WILSSA requests that Council approve two documents at its January 25 Council meeting.

172 **SUGGESTED AGENDA ITEM & MOTION:**

173

174 **AGENDA:** The Kittery Town Council moves to approve the Wood Island Life Saving Station
175 Repair, Maintenance and Use Agreement called "Agreement Two" dated January 19, 2016 and
176 the Concession Agreement between Town of Kittery, Maine and Wood Island Life Saving
177 Station Association dated January 19, 2016.

178 **MOTION TO APPROVE:** The Kittery Town Council moves to approve the Repair,
179 Maintenance and Use Agreement called "Agreement Two" dated January 19, 2016 and the
180 Concession Agreement between Town of Kittery, Maine and the Wood Island Life Saving
181 Station Association dated January 19, 2016.

January 19, 2016,

**WOOD ISLAND LIFE SAVING STATION REPAIR, MAINTENANCE, AND USE
AGREEMENT**

This REPAIR, MAINTENANCE and USE AGREEMENT, hereinafter referred to as "AGREEMENT TWO" is made and entered into this 25th day of January, 2016 by and between the Town of Kittery, hereinafter referred to as the "TOWN", and the Wood Island Life Saving Station Association, a non-profit corporation based in Kittery Point, Maine, hereinafter called the "WILSSA", collectively called "PARTIES."

WITNESSETH:

Whereas, the TOWN owns certain land, a historic life saving STATION and appurtenances totaling 1.25 acres, obtained by the TOWN from the United States of America, known as Wood Island Life Saving Station, and deeded to the TOWN February 27, 1973, found in Book 1985, Page 201, of the York County Registry of Deeds hereinafter referred to as the "PREMISES". A copy of said quitclaim deed is attached and hereinafter referred to as Exhibit A; and

Whereas, the TOWN and WILSSA use the term STRUCTURES to mean hereinafter the STATION (main building), shed, marine railway, pier, floats, moorings, seawalls, and wreck pole; and

Whereas, Condition No. 1 of said deed sets forth that "the property shall be used and maintained for the public purposes for which it was conveyed in perpetuity as set forth in the program of utilization and plan contained in the application submitted by the Grantee on the 25th day of October, 1972 and amended the 27th day of November 1972, which program and plan may be further amended from time to time at the request of either the Grantor or Grantee with the written recommendation and advice of the other party, and such amendments shall be added to and become a part of the original application;" and

Whereas, such program of utilization referenced above includes a statement that "the island would be used by boaters in the Piscataqua River as a place to stop for cookouts, picnics, etc. In addition, depending on the condition of present buildings it would also be maintained as a point of interest or historic site;" and

Whereas, Condition No. 3 of said deed provides that "The property will not be sold, leased, assigned or otherwise dispose of except to another local Governmental agency..." "However, nothing in this provision shall preclude the Grantee from providing related recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided prior concurrence to such agreements is provided in writing by the Secretary of the Interior or delegated representative"; and

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38 | **Whereas**, WILSSA desires to repair or construct the structures, maintain them and
39 | use them as a Maritime Museum for the enjoyment of the public; and

40 | **Whereas**, the TOWN proposes to allow the WILSSA to repair or construct the
41 | structures, maintain them and use them as a Maritime Museum for the enjoyment of
42 | the public; and

43 | **Whereas**, the TOWN acknowledges that only the TOWN can fund a hazardous
44 | materials abatement of the structures and premises; the TOWN has secured
45 | \$200,000 in federal Brownfields funding; the abatement of all hazardous materials
46 | eligible for federal funding will be undertaken by TOWN with the concurrence of
47 | WILSSA in terms of planning, timing, budgeting, phasing, approach and vendor
48 | selection; and, every effort will be made by the PARTIES to create and publically
49 | advertise a scope of work as soon as practical and begin work in the spring of 2016;
50 | and

51 | **Whereas**, the TOWN and WILSSA have finalized a concession agreement, as agreed
52 | by the National Park Service, that specifies the conditions under which the restored
53 | STRUCTURES will be operated for the use and enjoyment of the public by WILSSA;
54 | and

55 | **Whereas**, TOWN and the Maine State Historic Preservation Office have executed a
56 | 20 year Preservation Agreement as required by the \$200,000 National Maritime
57 | Heritage grant which has been approved by National Park Service that specifies the
58 | conditions under which the restored exterior of the STATION will be maintained;
59 | and

60 | **Whereas**, the legislature of the State of Maine has passed into law an appropriation
61 | for \$200,000 in funding to match the National Maritime Heritage grant and to be
62 | used for the exterior repairs of the building as soon as the hazardous materials
63 | abatement has been completed; and

64 | **Whereas**, WILSSA desires to seek additional private, foundation, corporate, state
65 | and federal funding or assistance to satisfy the financing of the repairs, construction,
66 | maintenance and operation of the STRUCTURES and the TOWN agrees to promptly
67 | review, make comments to, and support applications for funding or assistance by
68 | WILSSA, or apply for such funds or assistance itself on behalf of WILSSA (such as an
69 | application for an innovative readiness training exercise from the Maine National
70 | Guard), with the expressed condition that TOWN will not pay for any funding with
71 | the exception of the hazardous materials abatement funding; and

72 | **Whereas**, the TOWN agrees to allow WILSSA to create a protocol for recognizing
73 | donors and volunteers to this project; and

74 | **Whereas**, WILSSA and the TOWN agree that a nomination for National Register of
75 | Historic Places is appropriate and fitting for the historic STATION that is eligible for

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76 | such listing and the TOWN agrees not to object to such a nomination and to support
77 | it; and

78 | **Whereas,** Nothing in this agreement may restrict the public's access to Wood Island
79 | itself for recreational purposes year round, with the exception of areas inside
80 | designated construction sites or the maritime museum.

81 | **NOW, THEREFORE,** for the reasons set forth above, and in consideration of the
82 | mutual covenants and agreements as hereinafter set forth, WILSSA agrees to
83 | undertake the repair, construction and maintenance of the STRUCTURES and the
84 | TOWN agrees to allow WILSSA to repair or construct and maintain the
85 | STRUCTURES subject to all the terms and conditions of this AGREEMENT.

86 | **1. Exclusive Authority to Repair and Construct Structures**

87 | The TOWN does hereby allow WILSSA to repair or construct the STRUCTURES. The
88 | TOWN agrees not to award contracts or work to any other individual or entity,
89 | including itself, during the term of this AGREEMENT regarding the STRUCTURES,
90 | including, but not limited to, their repair, maintenance or use and the design,
91 | scheduling and execution of same without the written approval of WILSSA.

92 | **2. Improvements to Inure to the TOWN**

93 | Improvements to the STRUCTURES as undertaken, worked on and completed by
94 | WILSSA become the sole property of the TOWN.

95 | **3. Term**

96 | This AGREEMENT is effective immediately. This AGREEMENT will expire either at
97 | the end of the term of the concession agreement or any extension thereof or 20
98 | years after the date of the certificate of substantial completion of the exterior
99 | repairs if no certificate of occupancy has been secured by WILSSA for the PREMISES
100 | in that time, whichever occurs later.

101 | **4. Payments, Fees and Royalties**

102 | There will be no fee or tax paid by WILSSA to the TOWN or any other party for this
103 | AGREEMENT or for any matters covered by this AGREEMENT. In addition, the
104 | TOWN will impose no other costs of any kind upon WILSSA or the PREMISES during
105 | the term of this AGREEMENT, including, but not limited to, real estate property taxes
106 | or special assessments. No funds raised by WILSSA will become the property of the
107 | TOWN except in accordance with Article 17 or 18 of this Agreement. WILSSA may
108 | create and retain any royalties or payments for the use of images and descriptions
109 | of the STATION or its activities related to repairing, maintaining or operating the
110 | STATION.

111 | **5. WILSSA's and TOWN'S Records and Documents / Annual Report of**
112 | **Activities**

113 | With respect to all matters covered by this AGREEMENT, WILSSA'S records and
114 | documents are subject at reasonable times to inspection, review or audit by the

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TOWN. With respect to all matters covered by this AGREEMENT, the TOWN'S records and documents are subject at reasonable times to inspection, review or audit by WILSSA. WILSSA must provide to the TOWN a regular report of activities on an annual basis due no later than the execution date of this AGREEMENT. This report must include milestones reached, approximate contract and volunteer hours expended, funds raised, funds expended, and forward looking estimates of the tasks ahead. TOWN may use this report as it wishes, including using it in whole or in part to satisfy any reporting requirements regarding Wood Island with the National Park Service.

6. Licenses and Permits

All necessary licenses and/or permits to undertake repairs to or construction of the STRUCTURES must be obtained by WILSSA from the appropriate TOWN, State, and Federal offices. Any licenses, leases (such as a submerged lands lease with the State of Maine for the pier) or permits that require the owner of the property, rather than WILSSA, to be the applicant or signatory will be prepared by WILSSA in consultation with the TOWN and approved by the TOWN promptly. All fees for TOWN licenses, leases and/or permits and inspections will be waived for work authorized by this AGREEMENT. Consent for the issuance of any TOWN permits or permissions must not be unreasonably withheld.

7. Financial Security Package

Before undertaking any repairs or other improvements to the STRUCTURES as permitted under the terms of this AGREEMENT and to insure the satisfactory performance and completion of such repairs and improvements, WILSSA must establish an Irrevocable Letter Of Credit (LOC) with a Maine licensed bank or other comparable security or contract such as a federal grant agreement or a state appropriation with a relevant oversight agency in an amount of not less than the projected total costs of the proposed repairs and improvements as reflected in the building permit(s). The specific amount, financial institution, form and terms of the LOC or other comparable security or contract to fund the portion of the project to be completed must be approved by the Kittery Town Manager for only the purpose of assuring the financial security package meets the intent of this requirement. The Kittery Town Manager will consider in-kind contributions as a part of the financial security package.

8. Repair

WILSSA will select, arrange, design, schedule and supervise any and all aspects of the restoration of the STRUCTURES including all construction and finish work. TOWN will secure WILSSA's concurrence in terms of planning, timing, phasing, design, budgeting, approach, and vendor selection regarding the hazardous materials abatement.

9. Inspection of Structures

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155 | The National Park Service, and the State Historic Preservation Officer and their duly
156 | authorized representatives have the right to enter into and upon the STATION at a
157 | reasonable hour for the purpose of inspection of the STRUCTURES covered by this
158 | AGREEMENT upon reasonable advance notice to WILSSA. The TOWN's Code
159 | Enforcement Officer and the TOWN's public safety personnel including Fire and
160 | Police, have the right to enter into the structures at any time to perform inspections
161 | or undertake any activities within their respective functions and jurisdictions.

162 | **10. Other Terms and Conditions**

163 | **A. Indemnity and Limitation of Liability**

164 | 1) WILSSA hereby agrees to indemnify, defend and hold harmless the TOWN and its
165 | respective officers, officials, agents, employees, members of boards and committees,
166 | with respect to the equipment, work and materials that WILSSA or its
167 | subcontractors, employees, agents or representatives have agreed to perform and
168 | supply under this AGREEMENT from and against all expenses, losses and claims,
169 | demands, payments, suits, actions, liabilities, recoveries, and judgments of any
170 | nature and description, other than as a result of the sole negligence of the TOWN,
171 | including reasonable attorney's fees, resulting from claims arising out of or related
172 | to any act or omission of WILSSA, its agents, employees, contractors,
173 | representatives for service or materials provided, in the work and materials that
174 | WILSSA has agreed to perform and supply under this AGREEMENT, or by reason of
175 | any suit or claim for royalties, license fees, or infringement of copyright or patent
176 | rights arising, or alleged to have risen, from WILSSA'S performance under this
177 | AGREEMENT. This obligation to indemnify, defend and hold harmless does not
178 | waive any defense, immunity or limitation of liability which may be available to the
179 | TOWN, its officers, agents, or employees under the Maine Tort Claims Act pursuant
180 | to 14 M.R.S. §8101 et. seq.

181 | 2) In the event of the commencement of any action against the TOWN, or its
182 | respective officers, officials, agents, employees, or members of boards and
183 | committees which is within the scope of this indemnification, the TOWN will give
184 | notice thereof to WILSSA within fifteen business days after the TOWN is formally
185 | noticed in any such action, and, after consultation with the TOWN, WILSSA will have
186 | the right to select and furnish counsel for the defense of any such action, at no cost
187 | or expense to the TOWN.

188 | 3) The TOWN'S failure to give timely notice to WILSSA of the commencement of any
189 | such action does not relieve WILSSA of its obligations under this section unless such
190 | failure to give timely notice causes actual prejudice to WILSSA'S ability to defend
191 | any such claim. Except for settlements involving only the payment of money, no
192 | settlement which creates an obligation for the TOWN of any such action, or any

193 claim therein, may be made by WILSSA or by counsel selected by WILSSA without
194 the approval of the TOWN, which approval may not be unreasonably withheld.

195 4) The extent of WILSSA's indemnification and hold harmless is not limited by the
196 requirements for liability insurance under this AGREEMENT.

197 **B. Force Majeure**

198 WILSSA is not liable for any loss or damage due to failure or delay in performance
199 under this AGREEMENT, resulting from any unusual or unavoidable cause beyond
200 WILSSA's reasonable control such as, but not limited to: acts of God; acts or
201 omissions of civil or military authority; fires; floods; epidemics; quarantine
202 restrictions; unusually severe weather; strikes or other labor disputes; embargoes;
203 wars; political strife; riots; sabotage; unusual delay in transportation.

204 **11. Insurance**

205 **A. Coverage and Limits**

206 Once construction begins on the structures and thereafter, WILSSA shall at its sole
207 expense maintain insurance per the specifications and minimum limits set forth
208 herein.

209 1) Commercial General Liability on an occurrence, as opposed to claims made, basis
210 with general aggregate limit applicable per project and per location.

211 Each occurrence limit:.....\$1,000,000.00

212 General aggregate limit:.....\$2,000,000.00

213 Products/Completed operations aggregate limit:.....\$2,000,000.00

214 An additional insured provision is to apply to the TOWN and its respective officers,
215 officials, agents, and employees on a primary, non-contributory basis.

216 2) Automobile liability for owned, hired, and non-owned autos with combined
217 single limit each accident of \$1,000,000. An additional insured, or designated
218 insured, provision is to apply to the TOWN and its respective officers, officials,
219 agents, and employees.

220 3) If there are any employees, workers' compensation insurance to comply with the
221 requirements of Maine statute, plus employers' liability for:

222 Each Accident:.....\$100,000.00

223 Each Employee (disease):.....\$100,000.00

224 Policy Limit (disease):.....\$500,000.00

225 4) If required by Federal Statute, coverage to comply with the Longshore and
226 Harbor Workers' Compensation Act (33 USC Sections 901-950) and/or Merchant
227 Marine Act, 1920 (46 USC Section 688) commonly referenced as the "Jones Act".

228 5) All policies required by this AGREEMENT are to be provided by a company, or
229 companies, admitted to conduct business in the State of Maine. All policies shall be

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so written that the Kittery Town Manager will be notified of cancellation at least ten (10) days prior to the effective date of such cancellation. A certificate of insurance from WILSSA's insurance carrier showing at least the coverage and limits of liability specified above and the inception and expiration dates shall be filed with the Town Manager at least seven (7) calendar days before operations are begun.

6) WILSSA agrees to require that any written Agreements between WILSSA and any of its service or material provider(s) will require the same provisions, coverages, and limits as in this Article 11. WILSSA shall obtain an endorsement to its Commercial General Liability policy to cover WILSSA'S obligations under this Article.

7) The TOWN will use its best effort to include WILSSA as an insured party in any agreement with the Abatement Contractor.

12. Amendment to AGREEMENT

This AGREEMENT contains all the terms and conditions between the parties, and no alteration, amendment, or addition to this agreement is valid unless in writing and signed by the WILSSA and a majority vote of the full TOWN COUNCIL.

13. Governing Law

This AGREEMENT is governed and interpreted by Maine law.

14. Liens

WILSSA shall keep the facilities free from any and all liens arising out of any work performed, materials furnished, or obligations incurred by WILSSA during the term of this AGREEMENT or any extension or renewal thereof.

15. Waiver

No waiver by either party at any time, expressed or implied, of any breach of any provision of this AGREEMENT may be deemed a waiver of breach of any other provision of this AGREEMENT or a consent to any subsequent breach of the same or any other provision.

16. Dispute Resolution

Any dispute between the parties arising out of or relating to this AGREEMENT must be resolved in accordance with this Article. Any party may give written notice of a dispute arising out of or related to this Agreement to the other party in person or by certified mail, return receipt requested. The parties must attempt to resolve the matter through informal communication or negotiation for a period of thirty (30) days from the date of receipt of notice by the last party to receive notice. If the dispute has not been resolved within thirty (30) days, either party may serve written notice on the other party of a request for mediation. If the parties mutually agree to mediation, the mediation must be conducted in Maine by a mediator mutually agreeable to the parties, must not exceed one full day or two half days in length, and must be completed within forty five (45) days from the date of receipt

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269 of notice of a request for mediation by the last party to receive notice. In the event
270 that the parties are unable to agree on a mediator within thirty (30) days, or to
271 resolve the dispute through mediation within 45 days, the dispute may be submitted
272 to arbitration with the written concurrence of both PARTIES in accordance with the
273 procedures of the Maine Uniform Arbitration Act, 14 M.R.S. §5927 et seq. Nothing
274 in this provision precludes either party from seeking all available legal or equitable
275 remedies following mediation if it is held and arbitration is not agreed to by both
276 PARTIES.

277 17. Termination by TOWN/ WILSSA for Cause

278 A. TOWN may terminate this AGREEMENT if WILSSA:

279 1) Fails to provide timely reports of activities to the TOWN as required by this
280 AGREEMENT.

281 2) Is in substantial breach of this AGREEMENT.

282 3) This AGREEMENT may also be terminated by the TOWN in the event that
283 WILSSA ceases to be an active, nonprofit corporation registered to do business
284 under the laws of the State of Maine.

285 When any of the above conditions exist, the TOWN may, without prejudice to any
286 other rights or remedies of the TOWN and after giving WILSSA thirty (30) days
287 written notice to remedy above condition and the condition has not been remedied
288 within 30 days of such notice, terminate this AGREEMENT and may:

289 4) Take possession of all improvements made by WILSSA;

290 5) Maintain the work by whatever reasonable method TOWN may deem expedient
291 using funds available through an Irrevocable Letter Of Credit or other comparable
292 security as referred to in Article Z; or

293 B. WILSSA may terminate this AGREEMENT if the TOWN:

294 1) Is in substantial breach of this AGREEMENT,

295 When any of the above conditions exist, WILSSA may, without prejudice to any other
296 remedies or WILSSA and after giving the TOWN thirty (30) days written notice to
297 remedy the above condition and the condition has not been remedied within 30
298 days of such notice, terminate the AGREEMENT without penalty and may revoke the
299 Letter of Credit or Other Comparable Security.

300 18. Voluntary Termination

301 If there is significant damage to the STRUCTURES from fire (including arson), flood,
302 lightning, wind, wave or any act of God beyond the WILSSA'S control during the
303 course of this AGREEMENT, WILSSA will estimate the cost of the damage. If those
304 costs exceeded 75% of the cost of replacement of any one of the STRUCTURES so

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305 | damaged or portion thereof, that WILSSA is unable or unwilling to repair at their
306 | own expense, WILSSA reserves the right to terminate this contract without penalty.

307 | If, in the event of damage to the structures as described above, the TOWN will
308 | inquire of WILSSA if WILSSA intends to exercise its right of voluntary termination.
309 | WILSSA will answer such an inquiry from the TOWN, when notified, within sixty 60
310 | days and if planning to repair the damage at its own expense will provide a plan of
311 | work with timetable to complete the repairs. The TOWN will accept the plan of
312 | work and timetable under the same terms and conditions as are in this
313 | AGREEMENT.

314 | If WILSSA chooses voluntarily to terminate this AGREEMENT for the reasons stated,
315 | any funds available in the Letter of Credit or other comparable security must be
316 | released to the TOWN to be used to help remedy the damage and maintain the
317 | property. Any funds remaining from the Letter of Credit or other comparable
318 | security after a remedy of the damages and maintenance of the property must be
319 | returned to WILSSA.

320 | **19. Maintenance of Structures:**

321 | At the completion of the repairs of the exterior of the STATION and continuing
322 | throughout the duration of this AGREEMENT, WILSSA must, at its own expense and
323 | at no cost or expense to the TOWN, maintain the STRUCTURES in a safe and orderly,
324 | manner. A 20-year Agreement describing maintenance and related conditions for
325 | the exterior of the STATION (Exhibit B, "Preservation Agreement") has been
326 | approved by the designee of the National Park Service and entered into by the
327 | TOWN as Grantor and the State of Maine as Grantee. That Agreement allows for
328 | TOWN to seek other parties to pay for the maintenance costs of the Agreement.
329 | WILSSA shall maintain the property in accordance with that Agreement on behalf of
330 | TOWN.

331 | **20. Acknowledgement: Deed Terms and Conditions**

332 | This AGREEMENT and the obligations of the parties hereto are subject to the terms
333 | and conditions set forth in the deed from the United States of America to the TOWN,
334 | dated February 27, 1973, and recorded in the York County Registry of Deeds at
335 | Book 1985 Page # 201, and the current Program of Utilization referenced in this
336 | AGREEMENT,

337 | **21. Assignment**

338 | WILSSA may not assign or otherwise transfer in any other way to any party or
339 | individual its rights, duties or obligations under this AGREEMENT, either in whole
340 | or in part without the prior written consent of the majority vote of the full Town
341 | Council unless specified in the CONCESSION AGREEMENT,

342 | **22. Notice**

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flood, lightning, wind, wave or any act of
God beyond the WILSSA'S control during
the course of this AGREEMENT

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property

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343 Any notice required or permitted to be given by either party hereto to the other is
344 deemed to have been duly given when delivered personally or otherwise actually
345 received after mailing by certified mail, return receipt requested, or by reputable
346 overnight courier or by facsimile (with confirmation of receipt), addressed as
347 follows:

348	To TOWN:	To WILSSA:
349	TOWN MANAGER	WOOD ISLAND LIFE SAVING STATION ASSOC.
350	200 ROGERS ROAD	P.O. BOX 11
351	KITTERY, ME 03904	KITTERY POINT, ME 03905

352 Other addresses may be established as the parties hereto may designate by written
353 notice to the other party and delivered in accordance with the provisions of this
354 article.

355 **24. Rescission and Supersession**

356 The Agreement between TOWN and WILSSA, dated October 18th, 2013, and all
357 amendments thereto are superseded and rescinded as from the effective date of this
358 Agreement Two.

359 25. Severability of Provisions

360 If any provision or any portion thereof contained in this AGREEMENT is held
361 unconstitutional, invalid or unenforceable by a court of jurisdiction, the remainder
362 of this AGREEMENT shall be deemed severable, shall not be affected, and shall
363 remain in full force and effect.

364 **IN WITNESS WHEREOF**, the TOWN has authorized its Town Manager representing
365 the TOWN to sign this AGREEMENT and WILSSA has approved the AGREEMENT and
366 signed as of the date first noted above.

367 **TOWN, by:**_____

368 _____
369 *[Name] [Title] [Address] [TOWN, State, Zip Code]*

370 **WITNESS:**_____

371 **WILSSA, by:**_____

372 _____
[Name] [Title] [Address] [TOWN, State, Zip Code]

373 **WITNESS:**_____

- 374 **EXHIBIT A. Quitclaim Deed**
- 375 **EXHIBIT B. Preservation Agreement**

Substantive Policy Differences Remaining

Jan 19 2016

CONCESSION AGREEMENT

WILSSA

A restored Wood Island Station is in the Town's best interest

WILSSA to set hours of operation for Museum

20 year term with option for additional 20 years

Fees or income may be collected for admissions, rental, docking, mooring, members, merchandise, food and beverage, lodging and royalties. Admissions fees must be comparable to fees charges at similar facilities in the area.

Town's Attorney

Must be consistent with the Town's best interest (Either it is or it isn't - which is it?)

Prior approval of Town Council for hours of operation

5 year term with additional 5 year terms if Town satisfied that terms, conditions and intent of Agreement is being met.

Fees may be collected for admissions only and TOWN must approve.

REPAIR AGREEMENT

WILSSA

Town responsible for brownfields clean up (this was already agreed to in Oct 2013)

Concurrence with WILSSA for brownfields work (This is the essence of the Sec 106 issue)

Establish a protocol for recognizing donors /volunteers

Town's Attorney

Town acknowledges that there are hazardous materials

"Assistance" of WILSSA or "recommendation" of WILSSA

Town to approve such procedures

Substantive Policy Issues Remaining (continued)

20 year term to coincide with maintenance time frame or at the end of the concession agreement, whichever is later (Repair Agreement has provisions that need to run with Concession Agreement)

A state appropriation or federal grant will be proof of the availability of funding

WILSSA to maintain the structures

20 year term after the issuance of the building permit

Does not allow state appropriation or federal grant as proof. Additional letter of credit from a bank is required.

Town to approve WILSSA's maintenance of structures

January 19 2016

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CONCESSION AGREEMENT

Between

TOWN OF KITTERY, MAINE

and

WOOD ISLAND LIFE SAVING STATION ASSOCIATION

This Concession Agreement is made this 25th day of January, 2016 by and between the TOWN OF KITTERY, a municipal corporation of the State of Maine, with its office at Town Hall, 200 Rogers Road, Kittery ME, 03904, hereinafter referred to as the "TOWN", and the Wood Island Life Saving Station Association, a non-profit corporation with a mailing address at PO Box 11, Kittery Point, ME, 03905 hereinafter referred to as "WILSSA", collectively as the "PARTIES".

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RECITALS

Whereas, the TOWN owns certain land totaling 1.25 acres, historic life saving STATION and appurtenances, obtained by the TOWN from the United States of America (hereinafter referred to as the "USA"), known as Wood Island Life Saving Station, hereinafter referred to as the "PREMISES", which was deeded to the TOWN on February 27, 1973, found in Book 1985 Page 201 of the York Registry of Deeds, A copy of the quitclaim deed is attached (Exhibit A, "Quitclaim Deed"); and

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Whereas, the TOWN and WILSSA use the term STRUCTURES to mean hereinafter the STATION (main building), shed, marine railway, pier, floats, moorings, seawalls, and wreck pole; and

Whereas, Condition No. 1 of said deed sets forth that "the property shall be used and maintained for the public purposes for which it was conveyed in perpetuity as set forth in the program of utilization and plan contained in the application submitted by the Grantee on the 25th day of October, 1972 and amended the 27th day of November 1972, which program and plan may be further amended from time to time at the request of either the Grantor or Grantee with the written recommendation and advice of the other party, and such amendments shall be added to and become a part of the original application;" and

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Whereas, such program of utilization referenced above includes a statement that "the island would be used by boaters in the Piscataqua River as a place to stop for cookouts, picnics, etc. In addition, depending on the condition of present buildings it would also be maintained as a point of interest or historic site;" and

Whereas, Condition No. 3 of said deed provides that "The property will not be sold, leased, assigned or otherwise dispose of, except to another local Governmental agency..." "However, nothing in this provision shall preclude the Grantee from providing related recreational facilities and services compatible with the approved application, through concession agreements entered into with third

36 parties, provided prior concurrence to such agreements is provided in writing by the Secretary of the
37 Interior or delegated representative"; and

38 **Whereas**, the Secretary of the Interior or delegated representative provided written concurrence to this
39 CONCESSION AGREEMENT; and

40 **Whereas**, the PARTIES have entered into an agreement (Exhibit B, "Agreement Two") for WILSSA to
41 repair the STRUCTURES, maintain them and use them for the enjoyment of the public as a Maritime
42 Museum; and

43 **Whereas**, the PARTIES desire to specify the conditions under which the PREMISES will be used for the
44 enjoyment of the public as a park and Maritime Museum, and to allow WILSSA to raise funds for the
45 expenses of the maintenance, repair, construction of the STRUCTURES and the costs of operating the
46 Maritime Museum and other costs; and

47 **Whereas**, the primary purposes of the Maritime Museum established by WILSSA are the preservation of
48 historical artifacts; the presentation of historical information; and, the offering of demonstrations and
49 interactive exhibits of the maritime heritage of the Wood Island Life Saving Station; and

50 **Whereas**, the TOWN is satisfied that provision of additional services and facilities at the Wood Island
51 Life Savings Station by WILSSA is in the TOWN's and the public's best interest.

52 **NOW, THEREFORE**, for the reasons set forth above, and in consideration of the mutual promises,
53 covenants, and agreements, as hereinafter set forth, the TOWN agrees to allow WILSSA to establish,
54 maintain and operate a Maritime Museum located on the Town's property at Wood Island in Kittery,
55 Maine.

56 **1. LOCATION:**

57 The TOWN does hereby allow WILSSA the use of the Wood Island Life Saving Station and STRUCTURES
58 which are part of the PREMISES described in Exhibit A. The surrounding PREMISES of Wood Island,
59 totally 1.25 acres, may also be used by WILSSA for the purposes stated herein but must remain open for
60 public recreational use at all times as described in Section 3. Use of the property is subject to the terms
61 and conditions contained in the deed, attached as Exhibit A.

62 **2. USE OF PREMISES:**

63 The PARTIES agree that the PREMISES must be used as a Maritime Museum with access to the public
64 and for public recreational purposes. All uses undertaken by WILSSA pursuant to this agreement must
65 comply with local land use ordinances, as well all local, state, and federal permits and regulations.
66 TOWN acknowledges that this CONCESSION AGREEMENT is exclusive to WILSSA and may not contract
67 with any other individual or entity, including the Town, during the term of this AGREEMENT. This
68 provision does not preclude WILSSA from contracting with professional service providers, or other
69 vendors, to assist in operating the station such as charter boat operators to transport visitors to and
70 from Wood Island.

71 The premises may be used only for the following purposes, programs and activities:

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- a. A museum will occupy the first floor, the observation tower and portions of the property, depicting the history of Wood Island, specifically the roles of the US Life Saving Service from 1908 to 1915; the US Coast Guard from 1916 to 1941 and 1945 to 1948; and, the US Navy from 1941 to 1945.
- b. Demonstrations of life saving operations, displays of life saving equipment and implements and demonstrations of their use, methods and types of life saving and lifesaving architecture nationwide and interior furnishings that replicate what life was like in the STATION for the men that served there.
- c. Fund raising and income creating activities and programs for the benefit of the Museum. Fees charged for admission to the Museum will be reasonably nondiscriminatory and comparable to fees charged at similar facilities in the area. The Museum may be open seasonally to the public for such periods (months, days and hours) as determined in the sole discretion of WILSSA, but is intended to be open from June 1st through August 31th of any year covered by this agreement.
- d. Office and lodging space to support the Museum may be provided on the second floor with limited public access. The tower is intended to be accessible to the public as much as is safe and practical. The basement is to be used for mechanical and service functions and may have no public access. The shed is expected to offer a handicapped accessible bathroom and storage space for a generator.
- e. All other programs, activities and events related to or in furtherance of the purposes of the Museum.

3. Free Public Access for Recreation:

Nothing in this AGREEMENT, may restrict the public's access to Wood Island itself for recreational purposes year round, even when the Museum is not in operation and/or during off season with the exception of areas inside designated construction sites or the Museum. No fee will be charged for public recreational use of the PREMISES except as described in Section 21.

4. TERM:

This AGREEMENT, shall be effective from the date the certificate of occupancy is issued for an initial term of twenty (20) years.

5. RENEWAL

WILSSA has the exclusive option of extending this agreement for 1 additional twenty (20) year period.

WILSSA shall mail notice to the Town of its intent to exercise its option to renew the agreement ninety (90) days prior to expiration.

6. RENT AND FEES:

WILSSA shall pay no rent for the use of the STATION or STRUCTURES. In addition, no other costs or fees or taxes of any kind may be levied upon WILSSA for its use of the PREMISES including, but not limited to, real estate property taxes or special assessments. This is not intended to include any sales or income taxes or fees that may be required pursuant to State or Federal law.

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109 **7. UTILITIES:**

110 WILSSA is solely responsible for the design, construction and payment of costs associated with the
111 operation of any utility or security services on the premises.

112 **8. NO RIGHT TO ASSIGN OR SUBLET:**

113 WILSSA agrees not to assign or sublet any part of the premises without a majority vote of the full Town
114 Council approval following a public hearing and affirmed by the National Park Service to the extent it is
115 required. This provision does not preclude WILSSA from contracting with professional service providers
116 or other vendors to assist in operating the station such as charter boat operators to transport visitors to
117 and from Wood Island.

118 **9. MAINTENANCE OF STRUCTURES:**

119 During and throughout the term of this agreement, WILSSA shall, at its own expense and at no cost or
120 expense to the TOWN, maintain the STRUCTURES in a safe and orderly manner. A 20-year Preservation
121 Agreement describing maintenance and related conditions for the exterior of the STATION (Exhibit C,
122 "Preservation Agreement") has been approved by the designee of the National Park Service and entered
123 into by TOWN as Grantor and the State of Maine as Grantee. That Agreement allows for TOWN to seek
124 other parties to pay for the maintenance costs of the STATION exterior, WILSSA shall maintain the
125 exterior of the STATION in accordance with that Agreement on behalf of the TOWN.

126 **10. RESTRICTIONS ON USE AND ACTIVITIES:**

127 During and throughout the term of this AGREEMENT, the use, occupancy and activity of WILSSA, all
128 persons holding by or through WILSSA and all persons who come upon the premises with the consent of
129 the WILSSA are restricted as follows:

130 a. Permitted use. No part of the PREMISES may be used for any purpose other than as described in this
131 CONCESSION AGREEMENT,

132 b. Hazardous use. No part of the PREMISES may be used or occupied for any purpose that is extra
133 hazardous on account of fire, explosion, or toxic or radioactive emission or contamination.

134 c. Environmental protection. All activities on the PREMISES and all uses to which any part of the
135 PREMISES is put must comply in all material respects with Federal, State and local environmental
136 protection statutes, laws, rules and regulations, subject to WILSSA's right to contest the applicability
137 thereof, during which contest WILSSA may not be deemed in non-compliance. WILSSA must not
138 discharge, nor permit or suffer to be discharged, on or into the ground any substance that may
139 endanger or pollute the groundwater supply in any material respect. WILSSA shall promptly execute
140 and comply in all material respects with all statutes, ordinances, rules, orders, regulations and
141 requirements of the Federal, State, and Local governments having jurisdiction over said premises for the
142 correction, prevention, and abatement of pollution and use of the premises during the term of this
143 Agreement and any renewal thereof.

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144 d. Historic Property: The subject property is deemed to be historic (Exhibit D, "Determination of
145 Eligibility") and WILSSA will adequately ensure the preservation of the historic property per the 20 year
146 Preservation Agreement entered into by TOWN as Grantor and the State of Maine as Grantee to
147 maintain the exterior of the building. Also in accordance with that Preservation Agreement, any
148 proposed construction, alteration, remodeling, changes of color or surfacing or any other change that
149 would affect the structural integrity, appearance, cultural use, or archeological value of the property
150 requires express prior written approval of the State of Maine through the Director of the Maine Historic
151 Preservation Commission and will be in compliance with the Secretary of the Interior's Standards for
152 Rehabilitation and Guidelines for Rehabilitating Historic Structures. WILSSA must submit any proposed
153 changes to the property to the TOWN simultaneously to its submittal for approval to the Director of the
154 Maine Historic Preservation Commission.

155 **11. INSPECTION:**

156 | The National Park Service, and the State Historic Preservation Officer, and their duly authorized
157 representatives have the right to enter into and upon the STATION at a reasonable hour for the purpose
158 of inspection for compliance upon reasonable advance notice to WILSSA. The TOWN's Code
159 Enforcement Officer and the Town's public safety personnel, including Fire and Police, have the right to
160 enter into the STATION at any time to perform inspections or undertake any activities within their
161 respective functions and jurisdictions.

162 **12. SURRENDER.**

163 | At the expiration of the initial term or subsequent renewal term of this AGREEMENT, WILSSA shall
164 surrender the STATION to TOWN with all buildings, structures, and other improvements thereon.

165 **13. MOVABLE STRUCTURES.**

166 Machines, trade fixtures and similar installations which are installed in any building, structure, or other
167 improvement on the premises are not deemed to be part of the realty even though such installations
168 are attached to the floors, walls, or roof of any building or structure or to outside pavements, so long as
169 such installation can be removed without structural damage to any building, structure, or other
170 improvement on the premises; provided, however, that if the removal of any such installation damages
171 any part of the building, structure, other improvement, pavements or premises, WILSSA shall repair such
172 damage and restore said building, structure, other improvement, pavements or premises to the same
173 condition as originally existed upon the issuance of a certificate of occupancy, ordinary and usual wear
174 and tear excepted.

175 **14. PERSONAL PROPERTY.**

176 Any and all personal property of every kind and nature whatsoever, whether or not attached to or
177 installed in any building, structure, or other improvement which WILSSA places in, upon, or about the
178 premises during the term hereof may be removed there from prior the expiration of the term of this
179 agreement and remain the personal property of WILSSA.

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180 **15. INSURANCE.**

181 WILSSA shall at its sole expense during the term of this agreement maintain insurance per the
182 specifications and minimum limits set forth herein.

183 a. Commercial General Liability on an occurrence, as opposed to claims made, basis with general
184 aggregate limit applicable per project and per location.

185 Each occurrence limit:	\$1,000,000.00
186 General aggregate limit:	\$2,000,000.00
187 Products/Completed operations aggregate limit:	\$2,000,000.00

188 b. An additional insured provision is to apply to the TOWN and its respective officers, officials, agents,
189 and employees on a primary, non-contributory basis.

190 c. Automobile liability for owned, hired, and non-owned autos with combined single limit each accident
191 of \$1,000,000. An additional insured, or designated insured, provision is to apply to the TOWN and its
192 respective officers, officials, agents, and employees.

193 d. If there are any employees, workers' compensation insurance to comply with the requirements of
194 Maine statute, plus employers' liability for:

195 Each Accident:	\$100,000.00
196 Each Employee (disease):	\$100,000.00
197 Policy Limit (disease):	\$500,000.00

198 f. If required by Federal Statute, coverage to comply with the Longshore and Harbor Workers'
199 Compensation Act (33 USC Sections 901-950) and/or Merchant Marine Act, 1920 (46 USC Section 688)
200 commonly referenced as the "Jones Act".

201 g. All policies required by this AGREEMENT are to be provided by a company, or companies, admitted to
202 conduct business in the STATE OF MAINE. All policies shall be so written that the Kittery Town Manager
203 will be notified of cancellation at least ten (10) days prior to the effective date of such cancellation. A
204 certificate of insurance from WILSSA's insurance carrier showing at least the coverage and limits of
205 liability specified above and the inception and expiration dates shall be filed with the Town Manager at
206 least seven (7) calendar days before operations are begun.

207 h. WILSSA agrees to require that any written Agreements between WILSSA and any of its service or
208 material provider(s) will require the same provisions, coverages, and limits as in this Article 15. WILSSA
209 shall obtain an endorsement to its Commercial General Liability policy to cover WILSSA's obligations
210 under this Article.

211 **OTHER TERMS AND CONDITIONS**

212 **16. INDEMNITY AND LIMITATION OF LIABILITY**

213 1. WILSSA hereby agrees to indemnify, defend and hold harmless the TOWN and its respective officers,
214 officials, agents, employees, members of boards and committees, with respect to the equipment, work
215 and materials that WILSSA or its subcontractors, employees, agents or representatives have agreed to

216 perform and supply under this AGREEMENT from and against all expenses, losses and claims, demands,
217 payments, suits, actions, liabilities, recoveries, and judgments of any nature and description, other than
218 as a result of the sole negligence of the TOWN, including reasonable attorney's fees, resulting from
219 claims arising out of or related to any act or omission of WILLSA, its agents, employees, contractors,
220 representatives for service or materials provided, in the work and materials that WILLSA has agreed to
221 perform and supply under this AGREEMENT. This obligation to indemnify, defend and hold harmless
222 does not waive any defense, immunity or limitation of liability which may be available to the TOWN, its
223 officers, agents, or employees under the Maine Tort Claims Act pursuant to 14 M.R.S. §8101 et. seq.

224 2. In the event of the commencement of any action against the TOWN, or its respective officers,
225 officials, agents, employees, or members of boards and committees which is within the scope of this
226 indemnification, the TOWN will give notice thereof to WILSSA within fifteen business days after the
227 TOWN is formally noticed in any such action, and, after consultation with TOWN, WILSSA will have the
228 right to select and furnish counsel for the defense of any such action, at no cost or expense to the
229 TOWN.

230 3. The TOWN'S failure to give timely notice to WILLSA of the commencement of any such action does
231 not relieve WILLSA of its obligations under this section unless such failure to give timely notice causes
232 actual prejudice to WILLSA's ability to defend any such claim. Except for settlements involving only the
233 payment of money, no settlement which creates an obligation for the TOWN of any such action, or any
234 claim therein, may be made by WILLSA or by counsel selected by WILLSA, without the approval of the
235 TOWN, which approval may not be unreasonably withheld.

236 4. The extent of WILSSA's indemnification and hold harmless is not limited by the requirements for
237 liability insurance under this Agreement.

238 5. The provisions of this Article survive the termination of this AGREEMENT.

239 17. FORCE MAJEURE

240 WILSSA is not liable for any loss or damage due to failure or delay in performance under this
241 AGREEMENT, resulting from any unusual or unavoidable cause beyond WILSSA's reasonable control
242 including, but not limited to: acts of God; acts or omissions of civil or military authority; fires; floods;
243 epidemics; quarantine restrictions; unusually severe weather; strikes or other labor disputes;
244 embargoes; wars; political strife; riots; sabotage; or unusual delay in transportation.

245 18. WAIVER:

246 Failure of either party to complain of any act or omission on the part of the other party, no matter how
247 long the same may continue, is not deemed to be a waiver by said party of any of said party's rights
248 hereunder. No waiver by either party at any time, expressed or implied, of any breach of any provision
249 of this AGREEMENT, may be deemed a waiver of breach of any other provision of this AGREEMENT, or a
250 consent to any subsequent breach of the same or any other provision. If any action by either party
251 requires the consent and approval of the other party, the other party's consent to or approval of such
252 action on any one occasion may not be deemed to be a consent to or approval of said action on any
253 subsequent occasion. Any and all rights and remedies which either party may have under this
254 agreement, upon any breach, are distinct, separate and cumulative and not be deemed inconsistent
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255 with each other; and no one of them, whether exercised by said party or not, may be deemed to be an
256 exclusion of any other.

257 19. NON-DISCRIMINATION:

258 Within the 20 year Preservation Agreement entered into by TOWN as Grantor and the State of Maine as
259 Grantee to maintain the exterior of the building, the TOWN agreed to comply with certain State and
260 Federal laws relating to nondiscrimination on the basis of race, religion, national origin or disability.
261 WILSSA shall comply with those same terms and conditions.

262 20. ACKNOWLEDGEMENT:

263 This AGREEMENT, and the obligations of the parties hereto are subject to the terms and conditions set
264 forth in the Deed from the USA to the TOWN, dated the 27th day of February, 1973, and recorded at
265 York County Registry of Deeds/Clerks Office at Book 1985, page 201, and the current Program of
266 Utilization which governs the use of the PREMISES, v

267 21. RETENTION OF EARNINGS:

268 WILSSA may retain any and all income from any fees or any other income from any activities authorized
269 to be conducted by WILSSA pursuant to the terms of this AGREEMENT. Those activities and their fees
270 include, but are not limited to, admissions fees, rental fees, docking and mooring fees, membership
271 fees, merchandise sales, food and beverage sales, lodging fees and royalties. The scheduling and
272 marketing of such authorized activities are at the sole discretion of WILSSA. The values of all such fees
273 and costs, which may be set from time to time at the sole discretion of WILSSA, are to be retained in full
274 by WILSSA for the benefit of STATION and its Purpose, Use and Maintenance. However, fees charged for
275 admission to the Museum will be reasonably nondiscriminatory and comparable to fees charged at
276 similar facilities in the area.

277 22. TERMINATION

278 A. TOWN may terminate this AGREEMENT if WILSSA:

- 279 1) Is in substantial breach of a provision of this AGREEMENT.
280 2) If WILSSA ceases to be an active, functioning nonprofit corporation registered to do business under
281 the laws of the STATE of MAINE.

282 When any of the above conditions exist, TOWN may, without prejudice to any other rights or remedies
283 of TOWN and after giving WILSSA thirty days written notice to remedy above condition and the
284 condition has not been remedied, terminate this AGREEMENT:

285 B. WILSSA may terminate this AGREEMENT if TOWN:

- 286 1) Is in substantial breach of a provision of this AGREEMENT document.
287 If the above conditions exist, WILSSA may, without prejudice to any other remedies or WILSSA and after
288 giving the TOWN thirty (30) days written notice to remedy the above condition and the condition has
289 not been remedied, terminate the AGREEMENT without penalty.

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Deleted: Violations of the said terms and conditions may be grounds for reversion to the USA, at its discretion and termination of this Agreement. Concessionaire owned personal and real property improvements associated with the real property, may be subject to seizure, without compensation by the USA

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290 **23. NOTICE:**

291 Whenever notice is required to be given under the terms of this License, such notice must be in writing
292 and either hand delivered or mailed by certified mail, return receipt requested:

293 If to the WILSSA, to:
294 Wood Island Life Saving Station Assoc.
295 PO Box 11
296 Kittery Pt, ME 03905

297 If to TOWN, to:
298 Town Manager
299 Town of Kittery
300 200 Rogers Road
301 Kittery, ME 03904

302 or to such other addresses as WILSSA or TOWN designate for themselves in the same manner.

303 **24. AMENDMENT TO CONCESSION AGREEMENT:**

304 This CONCESSION AGREEMENT contains all the terms and conditions between the parties, and no
305 alteration, amendment, or addition is valid unless in writing and signed by WILSSA and a majority vote of
306 the full Kittery Town Council. If an amendment is made, written concurrence by the Secretary of the
307 Interior or designee is required in compliance and accordance with the TOWN's Deed from the
308 Department of the Interior.

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309 **25. OTHER ITEMS:**

310 The terms of the Repair, Maintenance and Use Agreement (Exhibit B, "Agreement Two"), dated January
311 19, 2016, remain in effect throughout the duration of this CONCESSION AGREEMENT or any renewal
312 term,

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313 **26. Captions:**

314 The captions to the paragraphs herein are for convenience only and are not to be deemed inclusive; the
315 Concession Agreement must be interpreted based upon its entire context.

316 **IN WITNESS WHEREOF**, the parties have set their hands and seals or caused this agreement to be signed
317 by their properly authorized corporate officers and caused their corporate seals to be hereunto affixed
318 this ____ day of _____, 2016.

319 TOWN, by: _____

320 _____

321 [Name] [Title] [Address] [Town, State, Zip Code]

322 WITNESS: _____

323

324 WILSSA, by: _____

325 _____

326 [Name] [Title] [Address] [Town, State, Zip Code]

327 WITNESS:

328 EXHIBIT A: Quitclaim Deed

329 EXHIBIT B: Repair, Maintenance, and Use Agreement (Agreement Two)

330 EXHIBIT C: Preservation Agreement

331 EXHIBIT D: Determination of Eligibility

5007-43600
ST. MARYS SUBMARINE MUSEUM, INC.
 PH. 9128822782
 102 ST. MARYS ST. W
 ST. MARYS, GA 31558

64-175/612 7994

DATE 05 JAN 2016

PAY TO THE ORDER OF THRESTER MEMORIAL PROTECT \$ 350.00
Three Hundred Fifty DOLLARS

Ameris Bank

MEMO SILENT STRENGTH

[Signature]

⑆06⑆20⑆754⑆ 2048589226⑈07994

SAFETY PAPER
 DELUXE SERIES CONTINUOUS
 Security Features Included. Details on Back.

KENNETH MYRON BONNELL 5007-43600 307
 3532 S WOODLAWN DR
 GREENVILLE, MS 38703

DATE 12/31/15

PAY TO THE ORDER OF TOWN OF KITTY FINANCE OFFICE \$ 20.00
Twenty & 00/100 DOLLARS

CB&S Bank
 Greenville, Mississippi

FOR THRESTER FUND ACCT 5007 Kenneth Myron Bonnell

⑆06⑆220⑆559⑆⑆8⑆40782544⑈ 0307

Handwritten Check
 Security Features Included. Details on Back.



TOWN OF KITTERY, MAINE

200 Rogers Road, Kittery, ME 03904
Telephone: (207) 439-0452 Fax: (207) 439-6806

APPLICATION TO THE KITTERY TOWN COUNCIL
TO APPROVE UP TO FIVE (5) REQUESTED DATES
FOR TOWN-WIDE SIDEWALK SALES EVENTS

1. List requested dates and days of the week for up to five (5) sidewalk sales events

in this calendar year (each event not to exceed four days):

Event #1: May 27-30
Event #2: July 1-4
Event #3: August 12-15
Event #4: September 2-5
Event #5: October 7-10

2. List the names and show signatures of five (5) merchants primarily engaged in retail trade or landlords of tenants primarily engaged in retail trade supporting this application:

<u>Name:</u>	<u>Affiliation:</u>	<u>Signature:</u>
A. <u>Mari O'Neil</u>	<u>Outlets@ Kittery</u>	<u>[Signature]</u>
B. <u>Jessica Marang</u>	<u>Van Housen</u>	<u>[Signature]</u>
C. <u>Elizabeth Fouscar-Lande</u>	<u>Premium Outlets</u>	<u>[Signature]</u>
D. <u>Amy Stern</u>	<u>Kittery Place</u>	<u>[Signature]</u>
E. <u>Meg Cloud</u>	<u>Weatherwane</u>	<u>[Signature]</u>

continued...

APPLICATION TO THE KITTERY TOWN COUNCIL TO APPROVE UP TO FIVE (5)
REQUESTED DATES FOR TOWN-WIDE SIDEWALK SALES EVENTS (Continued)

3. Indicate means of informing the Kittery business community of the opportunity to participate in the town-wide sidewalk sales event(s) should it be approved:

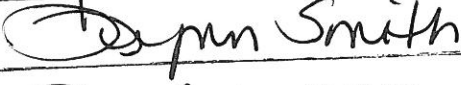
(Please circle at least one "yes" response)

- ☒ Yes No Post notices in conspicuous locations around town, including on KOA's website and the Town Office, stating the dates of the event and the requirement for a town-approved sidewalk sales site plan for merchants to participate.
- ☒ Yes No Insert a notice or article in the Greater York Chamber of Commerce newsletter or website.
- ☐ Yes No Place a legal notice in a newspaper of general circulation at least ten (10) days preceding the event.

Other methods: _____

4. Name of applicant/contact person coordinating the event(s):

NAME: Lynn Smith

SIGNATURE: 

ADDRESS: Po Box 357 Kittery ME 03904

TELEPHONE #: 207.439.4367

E-MAIL (OPT.): Lynn@thekitteryoutlets.com



TOWN OF KITTERY, MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

PLEASE CHECK APPROPRIATE SQUARE:

☒ APPLICATION FOR RE-APPOINTMENT TO TOWN BOARDS

☐ APPLICATION FOR APPOINTMENT FROM ALTERNATE TO FULL MEMBER

☐ APPLICATION FOR APPOINTMENT FROM FULL MEMBER TO ALTERNATE

NAME: Joseph W Afienko

RESIDENCE: 61 Picott Rd Kittery

MAILING ADDRESS IF DIFFERENT FROM ABOVE: _____

E-MAIL ADDRESS: Jafienko@071Newson.com

TELEPHONE NUMBERS: (HOME) 207-475-6532 (WORK) 439-4030

PRESENT POSITION: Board of Assessment Review

PLEASE CHECK APPROPRIATE SQUARE:

- | | | |
|--|---|--|
| <input type="checkbox"/> Board of Appeals | <input type="checkbox"/> Port Authority | <input type="checkbox"/> Mary Safford Wildes Trust |
| <input type="checkbox"/> Conservation Commission | <input type="checkbox"/> Planning Board | <input type="checkbox"/> Shellfish Conservation Comm. |
| <input checked="" type="checkbox"/> Board of Assessment Review | <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee |
| <input type="checkbox"/> Cable TV Rate Regulation Board | <input type="checkbox"/> Personnel Board | <input type="checkbox"/> Recycling Scholarship Selection Committee |
| <input type="checkbox"/> Other _____ | | |

COMMENTS: _____

Please read the back of this application before signing.

Joseph W Afienko
SIGNATURE OF APPLICANT

7-17-15
DATE



TOWN OF KITTERY, MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

RECEIVED
DEC 22 2015

BY: 9:30 Am

PLEASE CHECK APPROPRIATE SQUARE:

xx ☐ APPLICATION FOR RE-APPOINTMENT TO TOWN BOARDS

☐ **APPLICATION FOR APPOINTMENT FROM ALTERNATE TO FULL MEMBER**

☐ **APPLICATION FOR APPOINTMENT FROM FULL MEMBER TO ALTERNATE**

NAME: DUDLEY BIERAU

RESIDENCE: 8 OLD FARM ROAD, KITTERY, ME 03904

MAILING ADDRESS IF DIFFERENT FROM ABOVE: _____

E-MAIL ADDRESS: Bierau@att.net

TELEPHONE NUMBERS: (HOME) 439-4857 (WORK) _____

PRESENT POSITION: Member, Board of Assessment Review

PLEASE CHECK APPROPRIATE SQUARE:

- | | | |
|---|---|--|
| <input type="checkbox"/> Board of Appeals | <input type="checkbox"/> Port Authority | <input type="checkbox"/> Mary Safford Wildes Trust |
| <input type="checkbox"/> Conservation Commission | <input type="checkbox"/> Planning Board | <input type="checkbox"/> Shellfish Conservation Comm. |
| xx <input type="checkbox"/> Board of Assessment Review | <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee |
| <input type="checkbox"/> Cable TV Rate Regulation Board | <input type="checkbox"/> Personnel Board | <input type="checkbox"/> Recycling Scholarship Selection Committee |
| <input type="checkbox"/> Other _____ | | |

COMMENTS: 27th year B.O.A.R. member



TOWN OF KITTERY, MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904
Telephone: (207) 475-1328 Fax: (207) 439-6806

BY: *MHC* 9/19
JUN 25 2015

PLEASE CHECK APPROPRIATE SQUARE:

☒ APPLICATION FOR RE-APPOINTMENT TO TOWN BOARDS

☐ APPLICATION FOR APPOINTMENT FROM ALTERNATE TO FULL MEMBER

☐ APPLICATION FOR APPOINTMENT FROM FULL MEMBER TO ALTERNATE

NAME: Maren Saltus

RESIDENCE: 116 Pocahontas Rd

MAILING ADDRESS IF DIFFERENT FROM ABOVE: _____

E-MAIL ADDRESS: Maren@Marensaltus.com

TELEPHONE NUMBERS: (HOME) 438 9055 (WORK) _____

PRESENT POSITION: Conservation Commission

PLEASE CHECK APPROPRIATE SQUARE:

- | | | |
|---|---|--|
| <input type="checkbox"/> Board of Appeals | <input type="checkbox"/> Port Authority | <input type="checkbox"/> Mary Safford Wildes Trust |
| <input checked="" type="checkbox"/> Conservation Commission | <input type="checkbox"/> Planning Board | <input type="checkbox"/> Shellfish Conservation Comm. |
| <input type="checkbox"/> Board of Assessment Review | <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee |
| <input type="checkbox"/> Cable TV Rate Regulation Board | <input type="checkbox"/> Personnel Board | <input type="checkbox"/> Recycling Scholarship Selection Committee |
| <input type="checkbox"/> Other _____ | | |

COMMENTS: _____

Please read the back of this application before signing.

Maren Saltus
SIGNATURE OF APPLICANT

6-25-15
DATE



TOWN OF KITTERY, MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904
Telephone: (207) 475-1328 Fax: (207) 439-6806

BY: g. p.
JUN 22 2015

PLEASE CHECK APPROPRIATE SQUARE:

☒ APPLICATION FOR RE-APPOINTMENT TO TOWN BOARDS

☐ APPLICATION FOR APPOINTMENT FROM ALTERNATE TO FULL MEMBER

☐ APPLICATION FOR APPOINTMENT FROM FULL MEMBER TO ALTERNATE

NAME: EARL DEAN WELLS

RESIDENCE: 104 Whipple Rd

MAILING ADDRESS IF DIFFERENT FROM ABOVE: _____

E-MAIL ADDRESS: earldeanwells@myfarrpoint.net

TELEPHONE NUMBERS: (HOME) 207-439-2787 (WORK) _____

PRESENT POSITION: Chair - Conservation Commission

PLEASE CHECK APPROPRIATE SQUARE:

- | | | |
|---|---|--|
| <input type="checkbox"/> Board of Appeals | <input type="checkbox"/> Port Authority | <input type="checkbox"/> Mary Safford Wildes Trust |
| <input checked="" type="checkbox"/> Conservation Commission | <input type="checkbox"/> Planning Board | <input type="checkbox"/> Shellfish Conservation Comm. |
| <input type="checkbox"/> Board of Assessment Review | <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee |
| <input type="checkbox"/> Cable TV Rate Regulation Board | <input type="checkbox"/> Personnel Board | <input type="checkbox"/> Recycling Scholarship Selection Committee |
| <input type="checkbox"/> Other _____ | | |

COMMENTS: _____

Please read the back of this application before signing.

Earl Dean Wells
SIGNATURE OF APPLICANT

6/21/2015
DATE



TOWN OF KITTERY, MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

RECEIVED
JUL 08 2015

BY: 4:08 pm

PLEASE CHECK APPROPRIATE SQUARE:

☒ **APPLICATION FOR RE-APPOINTMENT TO TOWN BOARDS**

☐ **APPLICATION FOR APPOINTMENT FROM ALTERNATE TO FULL MEMBER**

☐ **APPLICATION FOR APPOINTMENT FROM FULL MEMBER TO ALTERNATE**

NAME: Jeffrey D. Thomson

RESIDENCE: 25 Old Post Rd

MAILING ADDRESS IF DIFFERENT FROM ABOVE: _____

E-MAIL ADDRESS: jeffdthomson@gmail.com

TELEPHONE NUMBERS: (HOME) 439-1277 (WORK) ^{cell} 752-1313

PRESENT POSITION: Trustee

PLEASE CHECK APPROPRIATE SQUARE:

- | | | |
|---|---|--|
| <input type="checkbox"/> Board of Appeals | <input type="checkbox"/> Port Authority | <input checked="" type="checkbox"/> Mary Safford Wildes Trust |
| <input type="checkbox"/> Conservation Commission | <input type="checkbox"/> Planning Board | <input type="checkbox"/> Shellfish Conservation Comm. |
| <input type="checkbox"/> Board of Assessment Review | <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee |
| <input type="checkbox"/> Cable TV Rate Regulation Board | <input type="checkbox"/> Personnel Board | <input type="checkbox"/> Recycling Scholarship Selection Committee |
| <input type="checkbox"/> Other _____ | | |

COMMENTS: Walk for the Common Good

Please read the back of this application before signing.

Jeff D. Thomson
SIGNATURE OF APPLICANT

6/19/15
DATE



TOWN OF KITTERY, MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

PLEASE CHECK APPROPRIATE SQUARE:

☒ APPLICATION FOR RE-APPOINTMENT TO TOWN BOARDS

☐ APPLICATION FOR APPOINTMENT FROM ALTERNATE TO FULL MEMBER

☐ APPLICATION FOR APPOINTMENT FROM FULL MEMBER TO ALTERNATE

NAME: Dan Clepp

RESIDENCE: Kittery 1 MacDougal St.

MAILING ADDRESS IF DIFFERENT FROM ABOVE: _____

E-MAIL ADDRESS: _____


TELEPHONE NUMBERS: (HOME) 207 439 0528 (WORK) _____

PRESENT POSITION: Chairman

PLEASE CHECK APPROPRIATE SQUARE:

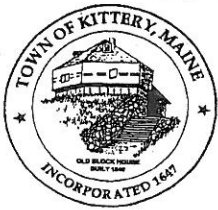
- | | | |
|---|---|--|
| <input type="checkbox"/> Board of Appeals | <input type="checkbox"/> Port Authority | <input type="checkbox"/> Mary Safford Wildes Trust |
| <input type="checkbox"/> Conservation Commission | <input type="checkbox"/> Planning Board | <input checked="" type="checkbox"/> Shellfish Conservation Comm. |
| <input type="checkbox"/> Board of Assessment Review | <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee |
| <input type="checkbox"/> Cable TV Rate Regulation Board | <input type="checkbox"/> Personnel Board | <input type="checkbox"/> Recycling Scholarship Selection Committee |
| <input type="checkbox"/> Other _____ | | |

COMMENTS: _____


SIGNATURE OF APPLICANT

Please read the back of this application before signing.

7-28-15
DATE



TOWN OF KITTERY, MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

RECEIVED
JUN 29 2015
9:30 AM
BY: _____

PLEASE CHECK APPROPRIATE SQUARE:

- ☒ **APPLICATION FOR RE-APPOINTMENT TO TOWN BOARDS**
- ☐ **APPLICATION FOR APPOINTMENT FROM ALTERNATE TO FULL MEMBER**
- ☐ **APPLICATION FOR APPOINTMENT FROM FULL MEMBER TO ALTERNATE**

NAME: JEAN TREACY

RESIDENCE: 135 Pepperrell Road, Kittery Pt., ME 03905

MAILING ADDRESS IF DIFFERENT FROM ABOVE: _____

E-MAIL ADDRESS: jeangtreacy@gmail.com

TELEPHONE NUMBERS: (HOME) 703-0448 (WORK) —

PRESENT POSITION: member of Shellfish Commission

PLEASE CHECK APPROPRIATE SQUARE:

- | | | |
|---|---|--|
| <input type="checkbox"/> Board of Appeals | <input type="checkbox"/> Port Authority | <input type="checkbox"/> Mary Safford Wildes Trust |
| <input type="checkbox"/> Conservation Commission | <input type="checkbox"/> Planning Board | <input checked="" type="checkbox"/> Shellfish Conservation Comm. |
| <input type="checkbox"/> Board of Assessment Review | <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee |
| <input type="checkbox"/> Cable TV Rate Regulation Board | <input type="checkbox"/> Personnel Board | <input type="checkbox"/> Recycling Scholarship Selection Committee |
| <input type="checkbox"/> Other _____ | | |

COMMENTS: _____

Please read the back of this application before signing.

Jean Treacy
SIGNATURE OF APPLICANT

6-23-05
DATE

COUNCIL GOALS 2016

1. Work together respectfully toward consensus, capitalizing on our experience and diversity.
2. Support the Town Manager to achieve greater economy & effectiveness in the delivery of services.
3. Adopt a budget that is progressive, responsible, and visionary – moving the community forward.
4. Continue to work with the Town of Eliot on sharing services with an emphasis toward the Solid Waste - Resource Recovery operations.
5. Give attention to Councilor expressed items, including:
 - Attention to bike lanes & ways
 - Climate change strategies for the town
 - Comp plan completion, or major progress to that end
 - Improvement in collaboration with the Shipyard
 - Improving management of Town-owned property and parks
 - Long-term development of light rail locally
 - Part-time or Intern assistance for Boards and Committees
 - Resolution of Port Authority and Wood Island issues
 - Work with any EDC recommendations regarding the– Rte 1 Bypass and Foreside